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MEETING NOTICE AND AGENDA  
CITIZENS REDISTRICTING COMMISSION BUSINESS MEETING  
THURSDAY, JUNE 16, 2011

REPORTED BY: Stephanie Jackson Georgeanne, CSR No. 8322

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1 Citizens Redistricting Commission Business Meeting,  
2 commencing at the hour of 10:06 a.m., Thursday, June  
3 16, 2011, before Stephanie Jackson Georgeanne, CSR No.  
4 8322, pursuant to Notice of Taking Deposition.

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7 APPEARANCE OF COMMISSIONERS AND STAFF:

8 GABINO AGUIRRE

9 ANGELO ANCHETA

10 VINCENT BARABBA

11 MARIA BLANCO

12 CYNTHIA DAI

13 MICHELLE DiGUILIO

14 JODIE FILKINS WEBBER

15 STANLEY FORBES

16 CONNIE GALAMBOS MALLOY

17 LIBERT "GIL" R. ONTAI

18 M. ANDRE PARVENU

19 JEANNE RAYA

20 MICHAEL WARD

21 PETER YAO

22 MARIAN JOHNSTON

23 DAN CLAYPOOL

24 JANECE SARGIS

25

1 APPEARANCE OF SPEAKERS :

2 ANDY WEISSMAN

3 GEORGE BROWN

4 DEBRA HOWARD

5 MR. WILCOX

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1 THURSDAY, JUNE 16, 2011, CULVER CITY, CALIFORNIA

2 10:06 A.M.

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5 COMMISSIONER FILKINS WEBBER: Today is  
6 June 16, 2011. This is a business meeting of the  
7 Citizens Redistricting Commission. I'm Jodie Filkins  
8 Webber, chair for this series of meetings. We do have  
9 a rotating chair policy. And to my right is  
10 Commissioner Maria Blanco, and she is my vice chair for  
11 this series of meetings; and she will be chair next  
12 week.

13 At this time I understand Councilman Weissman  
14 would like to say something today.

15 COUNCILMAN WEISSMAN: Good morning. And thank  
16 you, Madam Chair. My name is Andy Weissman, and I'm  
17 proud to be a city councilman here in Culver City.  
18 Welcome to Culver City. We have a five member city  
19 council. We're not exactly set up for a group quite  
20 this large. So we appreciate your squeezing in and  
21 moving into the cheap seats, as I heard it mentioned.

22 On behalf of the city council for the City of  
23 Culver City, I would like to take this opportunity to  
24 welcome the chair for the day, commissioners, and the  
25 public to today's meeting. I would also like to

1 recognize and thank our fellow Culver City resident,  
2 Andre Parvenu, who was instrumental in helping to  
3 coordinate today's meeting which is taking place in our  
4 council chambers.

5 Today's commission meeting and the public  
6 input hearing this evening will provide an opportunity  
7 for the community to express their views on the way the  
8 new boundaries should be drawn. The city council  
9 believes strongly in involving as many community  
10 members as possible at public meetings, and we  
11 appreciate the commission's outreach to the public in  
12 advance of today's meeting.

13 We encourage the members of the public to  
14 enthusiastically participate. To the commission, thank  
15 you for the countless hours that you have put into this  
16 process. And we certainly appreciate your hard work  
17 and welcome you to Culver City. If you have an  
18 opportunity to take a break this afternoon, we  
19 encourage you to take advantage of our amenities in  
20 Downtown Culver City, which we have worked so hard over  
21 the past 10 or 15 years to bring about.

22 Thank you all. Best of luck to you and thank  
23 you for your efforts.

24 COMMISSIONER FILKINS WEBBER: Thank you.

25 Janeece, may we have rollcall?

1 MS. SARGIS: Commissioner Aquirre.  
2 COMMISSIONER AGUIRRE: Here.  
3 MS. SARGIS: Commissioner Ancheta.  
4 COMMISSIONER ANCHETA: Here.  
5 MS. SARGIS: Commissioner Barabba.  
6 COMMISSIONER BARABBA: Here.  
7 MS. SARGIS: Commissioner Blanco.  
8 COMMISSIONER BLANCO: Here.  
9 MS. SARGIS: Commissioner Dai.  
10 COMMISSIONER DAI: Here.  
11 MS. SARGIS: Commissioner DiGuilio.  
12 COMMISSIONER DiGUILIO: Here.  
13 MS. SARGIS: Commissioner Filkins Webber.  
14 COMMISSIONER FILKINS WEBBER: Here.  
15 MS. SARGIS: Commissioner Forbes.  
16 COMMISSIONER FORBES: Here.  
17 MS. SARGIS: Commissioner Galambos Malloy.  
18 COMMISSIONER GALAMBOS MALLOY: Here.  
19 MS. SARGIS: Commissioner Ontai.  
20 COMMISSIONER ONTAI: Here.  
21 MS. SARGIS: Commissioner Parvenu.  
22 COMMISSIONER PARVENU: Here.  
23 MS. SARGIS: Commissioner Raya.  
24 COMMISSIONER RAYA: Here.  
25 MS. SARGIS: Commissioner Ward.

1 COMMISSIONER WARD: Here.

2 MS. SARGIS: Commissioner Yao.

3 COMMISSIONER YAO: Here.

4 MS. SARGIS: A quorum is present.

5 COMMISSIONER FILKINS WEBBER: Thank you.

6 At this time I would like to open up the mic  
7 to any members of the public who wish to provide any  
8 public comment this morning. It is our custom and  
9 practice in our vision of listening to all members at  
10 each of our meetings.

11 Do I see anyone who would like to make any  
12 public comments this morning on any item not on the  
13 agenda? I don't believe I see anyone. We'll obviously  
14 hear from plenty of people this evening.

15 So at this time the agenda is quite  
16 significant. And the purpose of the detailed agenda  
17 that we put together is to identify a series of issues  
18 that this commission has been working diligently to  
19 identify as well as to deal with at each of our  
20 business meetings. So although we may not get to every  
21 item on the agenda, the purpose was to make sure that  
22 not one issue falls through the cracks and to also  
23 provide sufficient notice to the public regarding the  
24 issues that have been raised and the necessary  
25 decisions that need to be made by this commission.

1           So although we do recognize it is quite  
2     extensive, it is likely that many items will be  
3     deferred. And so I have asked each of the leads to  
4     prioritize their discussions today so that we may work  
5     through each of these issues and make decisions for  
6     efficiency purposes so that we can put off those that  
7     can be put off to another meeting.

8           At this time I would like to invite our voting  
9     rights attorney, George Brown of Gibson, Dunn &  
10    Crutcher, to provide a presentation to this commission  
11    regarding various issues.

12           MR. BROWN: Thank you. Good morning. I'm  
13    going to try to work here, if I may.

14           Well, first of all, good morning and  
15    congratulations on getting that first set of draft maps  
16    out. I think it was a monumental achievement, and it  
17    is a great milestone in getting the maps where they  
18    need to be so we can continue to make progress.

19           I want to talk today about all of the topics  
20    that we have been talking about and report to you on  
21    where we are as of the first draft maps. I want to  
22    tell you about Section 5 issues. I want to talk, too,  
23    about Section 2 issues. I want to make a few comments  
24    about the Senate districts and a few comments about  
25    strategy for drawing congressional districts. And if



1 you like, we can talk a little bit about the report  
2 drafts.

3 (Interruption in the proceedings.)

4 MR. BROWN: So what I thought I would do is I  
5 will give you a quick summary of our views, and then  
6 I'll go back through and give you a little more depth.  
7 Let me start with Section 5. There are three things  
8 that I want to point out to you. First, as you know,  
9 there are a few instances in some of the counties where  
10 there are small populations where the proposed district  
11 has a slight deviation that is below the benchmark.

12 Here is our view on that: While Section 5  
13 does not provide any exceptions or exemptions for minor  
14 retrogressive changes, it does seem apparent from the  
15 case law that the DOJ could not meet the totality of  
16 the circumstances test for retrogression if the matter  
17 were litigated. Still we think the better course is  
18 for these small changes to make an effort to meet the  
19 benchmark; and if it can't be met, to provide a brief  
20 narrative explanation about what was tried and why it  
21 can't be met. We don't think this is a huge task but  
22 something that should be done.

23 Second issue, with respect to Monterey County  
24 and the -- there was a congressional district, I  
25 believe the 27th, that had two options. Option 1 was

1 drawn in a way that was not retrogressive relative to  
2 the benchmark. Option 2 is what was elected for the  
3 first draft maps, and it is slightly retrogressive for  
4 each of the groups.

5 We think what needs to be done is either --  
6 if Option 2 is desirable, try to make it meet the  
7 benchmark. Otherwise, in the absence of a compelling  
8 explanation for why the minority groups are better off  
9 with Option 2, the commission should choose Option 1.

10 With respect to Stockton, as you know, there  
11 is a substantial decline in the benchmark population  
12 for the Asian Pacific Islander group in part perhaps  
13 because in making the district more consistent with  
14 good redistricting practices, the draft maps eliminates  
15 what's been called the Stockton Finger.

16 We think there are good reasons to adopt the  
17 district; however, the Asian populations in the two  
18 areas -- we believe there is a monk population in the  
19 Stockton community. The Asian populations need to be  
20 evaluated to see whether, in fact, there was political  
21 cohesion or there was a relationship between those two  
22 communities in the prior districts.

23 If as has been suggested that there is not a  
24 real connection between the two and, in fact, there may  
25 be a preference to a stay within the Stockton

1 community, then we think that should be noted and  
2 explained. We also think that Dr. Barreto, our new RPV  
3 analyst, can help us evaluate those issues a little  
4 bit. That's Section 5.

5 With respect to Section 2, there are six  
6 discrete areas that we believe are geographically  
7 compact, seem to have greater than 50 percent CVAP for  
8 a single minority group and for which we have asked  
9 Dr. Barreto to help us evaluate whether there is  
10 racially polarized voting in the geographic area. And  
11 when that analysis is done, we will provide you with a  
12 judgement about whether those are likely to be required  
13 under Section 2.

14 Those areas are -- I'll refer to the Assembly  
15 districts and roughly by name of the area. There is  
16 one in Fresno. There is one in Pomona Valley. There's  
17 one that's called Rialto Fontana. There is a South  
18 San Diego. Then in L.A. County, there's East  
19 San Fernando Valley. And those five so far are  
20 majority Latino CVAP areas. Then there is San Gabriel  
21 Valley, which we believe is a majority of API  
22 potentially.

23 Now, in addition, under Section 2, there are  
24 few areas where further evaluation of a CVAP estimate  
25 is needed. And in my notes, there are three that we

1 should pay particular attention to. One is that  
2 San Gabriel Valley area that I just mentioned. In the  
3 first draft maps, the data suggests that the CVAP is  
4 49.95 percent. We need to ask our mappers to look more  
5 closely at that and see if they can come up with a  
6 better estimate of CVAP.

7 Then in the Santa Ana area, there is an  
8 Assembly district that has 46.53 percent Latino CVAP.  
9 That should be looked at a little more closely. It is  
10 currently not being regarded as a Section 2 required  
11 district, but we want to evaluate that.

12 And then South San Diego appears to be at  
13 exactly 50 percent, 50.0 percent. So we'll want the  
14 mappers to look a little more closely at that. And  
15 while they do that, in addition to evaluating CVAP,  
16 they should look to see whether there is an adjacent  
17 population that would push the number over the  
18 50 percent. I suspect there's not because they  
19 probably would have brought it to our attention  
20 already.

21 My next issue that I want to discuss with you  
22 about Section 2 is I think the most important issue  
23 that the commission needs to deal with, and that is the  
24 Los Angeles County districts. In Los Angeles County,  
25 as you know, evaluating whether or not there are

1 Section 2 claims is more complex than in some other  
2 areas because of the multiracial and multiethnic makeup  
3 of the county.

4 Consequently, the commission has undertaken to  
5 draw districts in L.A. pending legal advice based on  
6 the community of interest neighborhood city criteria  
7 and to evaluate the -- and while doing so, having  
8 sensitivity to not overconcentrating any particular  
9 population and having sensitivity to minority  
10 representation. We think that's the appropriate thing  
11 to do.

12 However, as we all know, there has been a lot  
13 of reaction from important voices in the community that  
14 says that the maps do not reflect their views of where  
15 communities are and which communities belong together.  
16 Consequently, I think there is some risk in the current  
17 set of maps that the commission could be open to a  
18 number of legal claims if it did nothing further.

19 And our strong suggestion is that the  
20 commission undertake a reasonably vigorous effort to do  
21 further outreach, hear further information from the  
22 members of the community, evaluate that information,  
23 and reconsider the districts, and make a further  
24 determination that the commission believes is fair in  
25 light of the further input. I think if the commission

1 does that, it will be in a very good position to defend  
2 its choices.

3 I have some more specific recommendations on  
4 each of these that I will go through in a minute. Let  
5 me point out that with respect to Senate districts, we  
6 believe that a lot of how those get drawn depends on  
7 the final look at the Assembly district. And so  
8 rightly so, they didn't get as much attention in the  
9 first draft. We think that they need a little more  
10 attention, and I have some thoughts of how the  
11 commission should be thinking about that.

12 So with that as a general background, let me  
13 offer some more specifics, particularly on L.A. County,  
14 and then ask if there are questions. Here are some of  
15 the tasks that I think the commission should undertake  
16 with respect to L.A. County.

17 First, conduct outreach to knowledgeable  
18 persons and groups and solicit further immediate input  
19 on L.A. cities, neighborhoods, and communities of  
20 interest, including which communities and neighborhoods  
21 belong together in a district and the supporting  
22 reasons.

23 Two, I think we should conduct some outreach  
24 to groups with legal sophistication to solicit any  
25 legal analysis or arguments suggesting specific

1 Section 2 districts that may be required, along with  
2 any supporting evidence that they're willing to  
3 provide.

4 Our current view has been that we have not  
5 advised the commission that there are any other  
6 Section 2 required districts other than the ones I have  
7 mentioned previously. I think we should ask our  
8 mappers to provide council with narrative explanation  
9 for each district in L.A. County that has been drawn.  
10 With those explanations discussing the bases used for  
11 drawing the district with specificity about why each  
12 major boundary was chosen, that will help us evaluate  
13 the current draft against community information that we  
14 receive. We plan to evaluate further the MALDEF  
15 written submission and some other group submissions and  
16 provide further input that we may come up with.

17 I think it will be useful to ask the mappers  
18 to provide some graphical illustrations of census  
19 data -- of other census data by geographic area to help  
20 illustrate potential community alignment. There's a  
21 lot of data, like income level, education level, type  
22 of housing, and the like, that might be readily  
23 available to the commission to help see patterns in the  
24 areas that we're considering and would help bolster  
25 your considerations.

1                   And, finally, we talked about this before. I  
2 think it would be useful for L.A. County for the  
3 mappers to provide an outline or chart of specific  
4 communities of interest that have been identified in  
5 L.A. County with an attempt to describe the geographic  
6 boundaries for each if it is ascertainable.

7                   Now, time permitting -- and I think people are  
8 skeptical of whether there is time for this -- I would  
9 actually suggest -- there are multiple different ways  
10 of drawing the maps in L.A. that are all consistent  
11 with the community of interest and neighborhood  
12 information. I would almost suggest having some  
13 propose in a simple form alternatives for the  
14 commission to look at and consider instead of just  
15 being presented with one. Instead of doing this  
16 seriatim and coming back with one iteration and then  
17 you talk about it some more, is it possible to have a  
18 couple different examples in front of the commissioners  
19 to look at and consider. I don't know if that is  
20 practical or not, but that's one suggestion.

21                   A few more words on Senate districts. We  
22 think in drawing Senate districts the order should be  
23 roughly as follows: First, there needs to be  
24 consideration of whether, in putting two Assembly  
25 districts together, there might be a compact -- a



1 geographically compact minority of population that  
2 constitutes more than 50 percent in a Senate district.  
3 Because if there is, then it is likely to be that that  
4 would be required under Section 2, particularly if we  
5 had already determined that the underlying Assembly  
6 district was required under Section 2. So there needs  
7 to be some assessment of whether that's been done and  
8 whether we've gotten it right.

9 Second, then, the Assembly district should be  
10 joined where they minimize the fragmentation of the  
11 geographic boundaries that you are all aware of. And  
12 then third after that, some consideration should be  
13 given to the remaining criteria which would include the  
14 compactness criteria.

15 Okay. So those are my -- those are my general  
16 and specific comments. I think it would be good now if  
17 I opened the floor to a few questions.

18 COMMISSIONER FILKINS WEBBER: Commissioner  
19 Blanco.

20 COMMISSIONER BLANCO: Did you mention you were  
21 going to talk about Congress? Do you want to do this  
22 first?

23 MR. BROWN: Yes. With respect to drawing  
24 congressional districts, we had at least one question  
25 about one of the districts which would lead us to give

1 the following advice: And that is that essentially you  
2 want to make an effort to go through the same exercise  
3 with respect to congressional districts that you have  
4 been going through with respect to Assembly districts,  
5 and that is trying to draw the district in a way that  
6 reflects that public input that you have been hearing  
7 and putting together neighborhoods, cities, communities  
8 that makes sense.

9 And you have to be sensitive to areas that are  
10 under consideration because they might be a Voting  
11 Rights Act area. And if it turns out that it is not a  
12 required area, I think you need to pay particular  
13 attention to the support for how the district is drawn  
14 and what the bases is. Because if you end up with an  
15 odd shaped district and you don't have sufficient  
16 support for it, it could lead to legal challenges.

17 So that's a bit general, but that's our view  
18 on congressional districts.

19 COMMISSIONER FILKINS WEBBER: Any questions?  
20 Commissioner Dai.

21 COMMISSIONER DAI: Thank you. I know I'm even  
22 shorter now. I'll try to hold my head up higher.

23 Mr. Brown, thank you for that overview. I'm  
24 curious. What are the implications for districts where  
25 we have drawn it based on community interest testimony

1 and it just happens to have a majority CVAP, minority  
2 CVAP? Is there some implication if we officially  
3 designated it as a Section 2 district or it just  
4 happens to end up as a majority Latino CVAP district?  
5 Because you mentioned several that we actually drew  
6 completely based on community of interest testimony.

7 MR. BROWN: There are a couple of  
8 considerations. First, it is our view that because the  
9 commission is obligated to comply with the Voting  
10 Rights Act, it needs to look to see where it may be  
11 obligated to draw a district. Second is even though  
12 the commission believes that it is a -- it has  
13 appropriately drawn the district based on community of  
14 interest lines, some people might disagree. If you had  
15 concluded that it's probably a required district, then  
16 you have two levels of argument that support the map.

17 COMMISSIONER DAI: Thank you.

18 COMMISSIONER FILKINS WEBBER: Commissioner  
19 Malloy.

20 COMMISSIONER MALLOY: We need a little  
21 technical assistance.

22 COMMISSIONER FILKINS WEBBER: Commissioner  
23 Ancheta.

24 COMMISSIONER ANCHETA: Thank you again for the  
25 overview. Building on Commissioner Dai's question, for

1 L.A. County, we sort of operated under the assumption  
2 that given we haven't had an RPV analysis, that we're  
3 sort of working on a play-it-safe strategy to make sure  
4 that we're also covering our bases with communities'  
5 interest, et cetera, et cetera.

6 But it seems to me that increasingly we're  
7 getting more information both in terms of publications  
8 and from what Dr. Barreto is preliminarily suggesting  
9 that the presumption may be that there is polarized  
10 voting in a lot of L.A. County.

11 And should we reconsider -- not to say we  
12 shouldn't gather all the appropriate testimony. But if  
13 there is now a presumption that there is, in fact,  
14 polarized voting, likely to be found polarized voting,  
15 should we be more attentive to explicit Section 2  
16 district lines versus sort of lining up other bases for  
17 our analysis?

18 MR. BROWN: I think it is going to be very  
19 difficult for any group to bring a successful Section 2  
20 claim in Los Angeles. But we have an open mind about  
21 that, and we're going to continue to talk to people and  
22 listen to the -- listen to the arguments. I believe  
23 that you could -- you may very well find racially  
24 polarized voting in parts of Los Angeles. I think  
25 there are a number of other challenges.

1 I do think, also, that the commission needs to  
2 be -- continue to be vigilant about avoiding steps that  
3 could lead to a Section 2 claim like overconcentration  
4 of a single minority in a particular area. But I think  
5 if the commission follows the steps that it's  
6 undertaken to follow, it will result in maps that are  
7 very defensible. It doesn't mean that someone won't  
8 assert a Section 2 claim, but I think it will be very  
9 defensible.

10 COMMISSIONER FILKINS WEBBER: Commissioner  
11 Malloy.

12 COMMISSIONER MALLOY: Mr. Brown, my question  
13 is actually related to the timeline. As you know,  
14 we're running out of time on our timeline. So my  
15 question is, we've had the statewide submissions for  
16 several weeks now, and you mentioned that one of the  
17 goals that your firm has is to do some deeper analysis  
18 of the submissions from groups, including MALDEF, but  
19 others as well, I presume.

20 Can you give a sense of will that analysis be  
21 complete by the time we do our next business meeting  
22 and line drawing session, which I believe is in Fresno  
23 later this week or next week?

24 COMMISSIONER FILKINS WEBBER: Next week.

25 COMMISSIONER MALLOY: Next week.

1 MR. BROWN: I wouldn't necessarily say  
2 complete. But having looked at many of the submissions  
3 already, I don't foresee anything that we're doing is  
4 going to hold up the commission's process. If that  
5 changes, we would let you know immediately.

6 I have reviewed the MALDEF submission and  
7 other submissions, and I believe the commission is  
8 currently on the right path with the suggestions I've  
9 made today. But as with many things, we're going to  
10 continue to look more deeply at it.

11 COMMISSIONER FILKINS WEBBER: Commissioner  
12 Aguirre.

13 COMMISSIONER AGUIRRE: Yes. Mr. Brown, good  
14 morning. Following up on the question of outreach to  
15 MALDEF and other similar groups, CAPAFR for example,  
16 that outreach -- is that something that you would  
17 undertake to outreach to these groups? You mentioned  
18 that we needed to outreach to groups that have a legal  
19 sophistication. So to me you would be the most  
20 indicative person to outreach to them and bring  
21 information back to us.

22 And then the second question is that given the  
23 diversity, especially of Latinos, in L.A. County and  
24 the fact when we travel in certain areas of Los Angeles  
25 a concentration of Latinos is very high in -- not only

1 in one area, but in adjacent areas, what would be the  
2 value of talking about forming majority, minority  
3 districts versus strictly a Section 2 perspective?

4 MR. BROWN: First on the outreach question, I  
5 think it is appropriate in some instances to have  
6 counsel reach out to counsel for some of the groups,  
7 and I have started to do that. With respect to  
8 providing information, I think that the commission  
9 needs to be sensitive to the fact that the only  
10 information that can count is public information that  
11 is presented to the commission.

12 So on the few occasions that I have spoken to  
13 people, what the message has been is to urge them to  
14 come back to the commission and provide additional  
15 information. So that is what needs to be done.

16 I'm not sure I fully understood your second  
17 question, but there are strong limitations that the  
18 courts have imposed in evaluating the Voting Rights Act  
19 under Section 2. And there are limited circumstances  
20 under which a group has a claim that will ultimately  
21 prevail. And that's why we have to go through the  
22 analysis as we have outlined before we conclude that an  
23 area is required under Section 2.

24 That's probably not a satisfactory answer to  
25 your question. So I'm happy to respond to follow-up.

1                   COMMISSIONER AGUIRRE: Well, the reason that I  
2 asked that question is because the discussion here in  
3 Los Angeles has been that the commission has focused on  
4 strictly COI information, community of interest  
5 information. And that was, of course, your  
6 recommendation, that we needed that COI input. But the  
7 argument is that by focusing most of our interest and  
8 attention on COI and then drawing districts based on  
9 that and knowing that there are communities that are  
10 generally underrepresented, not only politically but in  
11 public input hearings just because they're  
12 disenfranchised and other related factors, that for  
13 that reason, then, we've raised COI against the second  
14 criteria which is Voting Rights Act, so, in essence, in  
15 arguing that we have been inappropriate in focusing on  
16 them as a criteria.

17                   MR. BROWN: And that's an important question  
18 that people have raised. And I would respond by saying  
19 that the commission hasn't done that. The criteria is  
20 the same. The Voting Rights Act is the higher  
21 criteria. It must be followed. And so the commission  
22 must take steps to comply with the Voting Rights Act.  
23 So that's the starting point.

24                   The next level of the analysis is what does  
25 that mean and how does one go about doing that. And



1 the -- the steps that we have outlined we believe are  
2 the steps that you take to go about doing that.

3 I've heard some arguments about potential  
4 Section 2 claims in this area of Los Angeles that's  
5 under consideration, but not yet persuaded that there  
6 is a viable Section 2 claim in there in part, I think,  
7 because of the difficulty of showing racial block  
8 voting that will matter in an ultimate analysis, in  
9 part, not that it doesn't exist, but showing it in a  
10 way that it will matter; in part, because of the  
11 electoral success of both African Americans and Latinos  
12 in electing candidates that they prefer; and in part  
13 because of the challenge in showing that under the  
14 totality of the circumstances, Latinos have less  
15 opportunity for electoral success under the maps as  
16 drawn than they would otherwise have.

17 I think on the current record, there's not a  
18 viable Section 2 claim. It may be that we haven't  
19 fully considered some arguments. And, again, I have a  
20 very open mind on this, and I'm very interested in  
21 hearing from groups or anybody who has a different  
22 theory of why the analysis I just outlined is  
23 incorrect. But that's where we are right now.

24 That means -- that means that you cannot or  
25 should not draw the districts because of a belief that

1 you're doing it under the second criteria, the Voting  
2 Rights Act, because if it turns out that the commission  
3 is not correct about that, then the maps are vulnerable  
4 to challenges that you haven't followed the other  
5 criteria or a 14th Amendment challenge.

6 COMMISSIONER FILKINS WEBBER: Following up on  
7 this point, because I have this same question, and  
8 that's what I want this commission to also understand,  
9 is that your last point that if we looked at an area of  
10 Los Angeles that has -- it appears to have geographic  
11 compact minority group, but in the totality of the  
12 circumstances, in your analysis of Los Angeles County  
13 that there aren't any Section 2 designated districts,  
14 we have to be extremely careful in making sure we're  
15 not setting ourselves up for a potential 14th Amendment  
16 claim by simply drawing a district that would be  
17 majority, minority not categorized as a Section 2 if we  
18 do not have supporting community of interest testimony,  
19 correct?

20 MR. BROWN: Yes.

21 COMMISSIONER FILKINS WEBBER: Okay.

22 Commissioner Ancheta was next.

23 COMMISSIONER ANCHETA: Two points. One is I  
24 do want to address Commissioner Galambos Malloy's  
25 earlier inquiry. As you know, Commissioner DiGuilio

1 and I are still the work plan implementers, for lack of  
2 a better term. We have been using another one, which I  
3 won't mention here, not dictator, of course, but more  
4 power.

5 In any case, the point being, we did schedule  
6 a meeting with Q2 and one of the Gibson Dunn associates  
7 tomorrow to sort of go through the MALDEF maps and do  
8 some analysis there and look at some of the other  
9 statewide maps. And, again, this is based on a  
10 conversation that Mr. Brown and I had with Dr. Barreto  
11 this morning just to get a sense of the timelines,  
12 which are very encouraging in terms of -- it is very  
13 encouraging in terms of his ability to turn things  
14 around fairly quickly, which is good. But he's going  
15 to take a look at some of those statewide submissions  
16 as well to kind of get a sense of the data and how they  
17 might align with how he's going to look at the voting  
18 patterns in various districts. Again, that's  
19 encouraging.

20 I do want to raise one question. I think it  
21 is a closed issue at this point. But in looking at the  
22 Orange County area, I think it's been premature from  
23 your determination that the Santa Ana, Anaheim linkage  
24 is not one where you feel there is a Section 2 --  
25 potential Section 2 claim; is that correct?

1 MR. BROWN: Our analysis of it was that it's  
2 not a geographically compact single minority community  
3 there because of the fact that the City of Orange seems  
4 to run right through where the two populations would  
5 be.

6 COMMISSIONER ANCHETA: And I only ask the  
7 question because I did forward some case law, too,  
8 regarding a Supreme Court analysis of compactness and  
9 some lower court opinions. But it is still your  
10 determination that they're not close enough in terms of  
11 geographic area to be compact under the Gingles  
12 requirement?

13 MR. BROWN: Thank you for sending that Supreme  
14 Court case. I thought you were sending it because of  
15 the issue in Imperial and Coachella Valley.

16 COMMISSIONER ANCHETA: I did. And it is  
17 relevant because ultimately that's really far apart.

18 MR. BROWN: As a result of reading that, our  
19 view is that it is not -- it's not compact.

20 COMMISSIONER ANCHETA: Yeah. And, again, I  
21 think our --

22 MR. BROWN: That our leaning in that case will  
23 further solidify lenience there.

24 COMMISSIONER ANCHETA: And I think that's an  
25 easier case because that's many miles. As you recall,

1 we're talking about the Coachella Valley and Imperial  
2 County. That's much more than five or six miles, which  
3 is sort of how the Santa Ana and Anaheim gap is. To  
4 the extent the case law is not that clear, except at  
5 the extreme areas, again, I think the case law makes  
6 pretty clear that Coachella and Imperial are not going  
7 to be a Section 2 district.

8 But I guess to the extent there's any  
9 additional guidance in looking at some of the cases,  
10 you still feel that it is pretty much not compact  
11 enough at that distance in Orange County?

12 MR. BROWN: It is more of a common sense test  
13 when you look at the map, at least our views. And I  
14 suppose if someone wanted to try to build an argument,  
15 you would want to look more closely at what the  
16 community of interest testimony was in that area.

17 COMMISSIONER FILKINS WEBBER: I have  
18 Commissioner Ward.

19 COMMISSIONER WARD: It's been answered.

20 COMMISSIONER FILKINS WEBBER: Commissioner  
21 Barabba.

22 COMMISSIONER BARABBA: I'm still somewhat  
23 troubled by the use of CVAP and the amount of error  
24 associated with that number particularly when we're  
25 talking about really minor differences which would

1 indicate retrogression.

2 Is there any appreciation on the Justice  
3 Department of that -- using those numbers as precisely  
4 as has been implied?

5 MR. BROWN: You may be talking about two  
6 different issues. So let me make sure I'm clear on  
7 which issue you're talking about. Are you speaking  
8 about the Section 5 issue?

9 COMMISSIONER BARABBA: Yes.

10 MR. BROWN: I don't think you have to base  
11 your Section 5 decisions on CVAP. Our same analysis  
12 applies when you look at voting age population as the  
13 benchmark. And the suggestion was with respect to the  
14 small populations, it is unlikely that the DOJ could  
15 successfully litigate a claim. So -- but we think the  
16 better practice would be to see if you can make it  
17 completely not retrogressive, because then there are no  
18 questions about what was done. And if you can't, then  
19 simply provide a narrative explanation for what was  
20 tried and why it wasn't feasible.

21 COMMISSIONER BARABBA: So if we found a case  
22 where we make it no retrogression, but the district  
23 really looks onerous, it doesn't tie into the  
24 communities of interest; but as to another district, we  
25 would be in a position to make that point of view?

1 MR. BROWN: I think so where the population is  
2 very small.

3 COMMISSIONER BARABBA: Thank you.

4 COMMISSIONER FILKINS WEBBER: Commissioner  
5 Blanco.

6 COMMISSIONER BLANCO: So I have a couple of  
7 questions. One, when Commissioner Ancheta asked about  
8 the -- short of legal Section 2 district from the point  
9 of view of a district that is compact and has polarized  
10 voting, short of that, what we look at that we would --  
11 that we have to be very careful that we're basing it on  
12 community of interest in order to avoid a 14th  
13 Amendment --

14 MR. BROWN: To say it better, it would be  
15 other redistricting.

16 COMMISSIONER BLANCO: Right. And the only  
17 clarification I want to make there, because in your  
18 response to his question, you mentioned, "So we would  
19 have to use testimony." And I know I keep coming back  
20 to this issue that was alluded to a little bit by the  
21 commissioner. We may not always have testimony like  
22 oral testimony or even public comments, but there may  
23 be information about, you know, communities that have  
24 similarities and share -- you know, have a tradition,  
25 et cetera, et cetera, that we really haven't heard

1 from.

2 And sometimes I think when we look at the  
3 Latino population, not even that, just when we look at  
4 the, you know, demographics, what that kind of tells  
5 you sometimes in shorthand is there's a community here  
6 that has settled here, that if they have that common  
7 ethnic culture, it probably has some things in common,  
8 but we may not hear anything about that.

9 So I'm a little concerned about narrowing  
10 ourselves down to testimony both oral and written and  
11 that, otherwise, we're free to just draw maps that  
12 don't take into account what may in reality represent  
13 communities.

14 MR. BROWN: Yes. I think perhaps when people  
15 use the word "testimony," they don't mean to limit it  
16 that way. But if so, it should be limited that way. I  
17 think the commission is free to look at objective  
18 evidence about where communities are, and I know there  
19 are reports and data and publications and census data  
20 and demographics. There's all sorts of information  
21 that the commission can take into account in trying to  
22 figure out what goes with what, which communities seem  
23 to be grouped together, and the like.

24 And I think you're free to collect some of  
25 that information and think about it and consider the



1 public testimony and then try to do your best to do  
2 what's fair, being sensitive to not overconcentrating  
3 minority populations and sensitive to the interests of  
4 minority representation.

5 COMMISSIONER BLANCO: That was my first  
6 question. And then going back to the Santa Ana  
7 question posed by Commissioner Ancheta, one of the  
8 things that -- that -- about congressional -- the  
9 congressional boundaries that I know -- you alluded to  
10 this, but I would like to know more about it.

11 When you take that Santa Ana congressional  
12 area, and in your view it is not a Section 2  
13 congressional area because maybe Santa Ana and Anaheim  
14 are not compact enough.

15 MR. BROWN: It was the Assembly district.

16 COMMISSIONER BLANCO: Oh, it was the Assembly.  
17 Okay. So my question is really about Congress, which  
18 is -- you know, because we'll be looking at that area  
19 again for Congress. And what happens with that  
20 compactness in the congressional analysis for a  
21 Section 2 claim? Would we look at Anaheim and  
22 Santa Ana together for a larger congressional district?  
23 You know, what is the measure of compactness when  
24 you're dealing with a larger geographic or larger  
25 population that you have to build a congressional

1 district with?

2 MR. BROWN: I think it is a good question.  
3 Obviously, when you have a larger population for the  
4 larger districts, the Senate districts and  
5 congressional districts, you're drawing over a larger  
6 area. And we should ask the question, is there a  
7 single minority population that is more than -- that  
8 can be drawn that constitutes more than 50 percent in  
9 this area? And if there is, we ought to look at it and  
10 ask the compactness question again. And, you know, I  
11 would want to see it and think about it.

12 Where the different communities are  
13 geographically compact but distinct, I'm not sure it  
14 meets that first Gingles condition. It may be that you  
15 choose to draw the district because you believe that it  
16 is appropriate to keep those communities in one  
17 congressional district. And it seems to me that you  
18 could -- you could have reasons to do that. But it may  
19 be that if they are geographically separate, there is a  
20 risk that it won't meet that first Gingles  
21 precondition.

22 COMMISSIONER FILKINS WEBBER: I'm pondering  
23 that with my own question.

24 Commissioner Dai was next.

25 COMMISSIONER DAI: Yes. Actually, I had a

1 very similar question with the Senate, and then back to  
2 your comment that when we look at pairing Assembly  
3 districts to nest them for the Senate, that we should  
4 be -- obviously look carefully at Assembly districts  
5 that we decided were Section 2. If we paired --  
6 theoretically, if we paired Assembly districts that  
7 were Section 2 for the same minority group, we should  
8 get a Senate district that's also Section 2.

9 But in some cases, there is not going to be an  
10 obvious partner. So I guess, again, the question  
11 becomes -- it is a similar question -- how do you look  
12 at compactness with this, you know, larger area?  
13 Because you were kind of saying it's a common sense  
14 test. And when we looked at it together, we were  
15 looking at gradations of red. I can tell you I have a  
16 lot of students who are PowerPoint experts who can  
17 change the scale on that so that they would look  
18 compact.

19 So, you know, I'm wondering if there is a  
20 little more that we can hang our hat on. Because we  
21 actually, for example, did get a lot of testimony about  
22 putting Santa Ana and Anaheim together, you know,  
23 regardless of whether it looks compact or not. We did  
24 get a lot of community testimony about that.

25 How do we reconcile that?

1 MR. BROWN: I think that you -- on the Senate  
2 district question, I think that the analysis is as we  
3 outlined. The first question, is it -- does it look  
4 like it might be a required Section 2 district. And  
5 it's possible that you have two majority Assembly  
6 districts that don't meet the first Gingles  
7 precondition in a Senate district because they're not  
8 compact because they're only joined at the edge or  
9 something.

10 If you're in that situation, then you move --  
11 the next criteria would be minimizing the fragmentation  
12 of those various geographic boundaries; and that has to  
13 be considered. And then when you're in that criteria,  
14 you're free to choose to group communities together  
15 that seem to belong together based on what you know  
16 about those areas.

17 So I think you could -- if there was a lot of  
18 testimony about grouping Santa Ana and Anaheim  
19 together, and it fit within a district Senate or  
20 congressional district, you could do it for those  
21 reasons. Someone might ask, "Have you fragmented too  
22 many areas?" But that is a different question you  
23 could evaluate.

24 COMMISSIONER DAI: So just to make sure I  
25 understand, so the case of Santa Ana and Anaheim, I

1 think we decided because of population, it would be  
2 hard to make a Senate -- a single Assembly district  
3 anyway regardless of the compactness issue. But with  
4 congressional and with Senate, you know, there's room  
5 to put, you know, both cities in, as well as the City  
6 of Orange in the middle.

7 So what you're saying is if we decide they are  
8 distinct communities, but they're similar, so it would  
9 make sense to group them together. And that's also  
10 what the testimony was.

11 MR. BROWN: Another way of saying it is that  
12 when we say it is not required under Section 2, it  
13 doesn't mean the commission can't throw out a district.  
14 It just has to make sure it is following its normal  
15 practices and other criteria.

16 COMMISSIONER DAI: Thank you.

17 COMMISSIONER FILKINS WEBBER: Pardon me. Does  
18 anyone else have any questions?

19 I want to follow up on this point just a  
20 little bit further. Because we do have nestings way  
21 down at the bottom, but it is identified in one of our  
22 categories. But you had mentioned earlier that we  
23 should consider when we -- if we're looking at an  
24 Assembly district that's Section 2, and if we agree  
25 with your recommendations that there may only be six,

1 those are so independent there isn't necessarily any  
2 adjacent population for, I guess -- I guess my question  
3 is, could there be an argument that if we -- we've been  
4 asking Q2 to blend sometimes instead of doing nesting.  
5 And if we do that in certain areas because it is  
6 supported by the community of interest testimony, my  
7 concern is, do you see that there is potential risk of  
8 an argument that if we have a Section 2 Assembly  
9 district, that when we either consider nesting or  
10 blending, if we do it in a way that might dilute that  
11 district on a Senate level, could we be getting  
12 ourselves in trouble between making the decision of  
13 nesting or blending?

14 In other words, in one area we might have  
15 blended for community of interest, and in another area  
16 that's nearest Section 2 we don't necessarily have  
17 testimony that would tie that Section 2 Assembly to any  
18 necessary other Assembly district in the area so we  
19 might just nest the two together based on the criteria,  
20 could there be an argument where you blend it over  
21 here, why didn't you blend over near the Section 2 to  
22 create potentially a greater percentage of a minority  
23 group in the Senate district? So now what you have  
24 done by nesting, you have diluted our vote that we had  
25 -- the strength of our vote at the Senate level now

1       instead of looking at it broader.

2               MR. BROWN: I think the requirement for a  
3       successful Section 2 claim are so narrow that if you  
4       don't get past that first criteria of having a  
5       50 percent majority in the proposed Senate district or  
6       an alternatively drawn Senate district, then you're not  
7       talking about Section 2 any more, for the most part,  
8       unless there is an argument that something was done  
9       purposefully. So I think that's just the threshold  
10      issue. And even though there are good policy reasons  
11      for making one choice over another, it is not a  
12      Section 2 issue.

13              So then the commissioners are going to then  
14      have to debate what the preferred approach is, assuming  
15      there are alternatives that are all consistent with the  
16      criteria.

17              COMMISSIONER FILKINS WEBBER: Okay. I had one  
18      other question. When you were discussing  
19      recommendations that this commission should consider in  
20      instructing Q2, it was under the Section 2; and you had  
21      suggested that we ask Q2 to do further evaluation of  
22      CVAP in San Gabriel Valley and more likely in Santa Ana  
23      and San Diego. And you had made a comment to  
24      potentially instruct Q2 to look at adjacent population  
25      to those areas in order to push the population over

1 50 percent.

2 Is there a maximum? I mean, if we don't give  
3 some better instructions, just to say over 50 percent,  
4 we want to find that line between we don't want to  
5 highly concentrate if we're looking? So what should  
6 our specific instructions be? I mean, go out and look  
7 for adjacent population, but where should the  
8 percentage be?

9 MR. BROWN: The way I envision things is you  
10 ask a question, you get some information back, and then  
11 give further instruction. It is not as if we can  
12 automatically preprogram what's going to happen. So  
13 the first question is, is there an adjacent population  
14 that if added would constitute at least 50 percent CVAP  
15 in a geographically compact area? That's the first  
16 question.

17 Now, if you get to a point where you decide  
18 that a Section 2 area is required, the next question is  
19 how big should it be in order to be effective? And  
20 that's where it's going to depend on the facts of that  
21 particular area.

22 COMMISSIONER FILKINS WEBBER: Because you  
23 could get in a situation where you're not, you know,  
24 having a geographic compact if you're flowing out --

25 MR. BROWN: The threshold question is, is



1     there something adjacent? I'm assuming if there was an  
2     adjacent population that pushed over 50 percent, they  
3     would have flagged it for us already. But I think it  
4     is worth asking.

5             COMMISSIONER FILKINS WEBBER: Okay. Any other  
6     questions? Commissioner Yao.

7             COMMISSIONER YAO: Let me use the Stockton  
8     Finger as a situation for discussion, and not so much  
9     about the Stockton map, per se. If we have an option  
10    to go back to implementing the Stockton Finger and by  
11    doing so we can raise all these issues of the minority  
12    group, what is the justification that we have in terms  
13    of not implementing that option?

14            Here is my thought: If we look at Prop 11,  
15    the priority, the Voting Right Act is the second  
16    highest way above -- above the community of interest of  
17    the city and all the other factors; and Voting Right  
18    Act suggests that we need to preserve the -- the  
19    minority.

20            So when you gave us the option of not -- of  
21    going to -- the option without using the Stockton  
22    Finger because of the compactness, because of all the  
23    other criteria, on what basis are you giving us that  
24    advice?

25            MR. BROWN: Right.

1 COMMISSIONER YAO: The way I see it is we're  
2 not really given many options to begin with.

3 MR. BROWN: It is an excellent question. The  
4 basis for not drawing the Stockton Finger, or any  
5 similar situation, is that you reach a conclusion that  
6 Section 5 does not require you to do it because it's  
7 not retrogressive to the community when you look at the  
8 totality of the circumstances. That's really where --  
9 that's really what we're saying at the end of the day  
10 in the advice we have given on this.

11 And it would not be retrogressive under the  
12 totality of the circumstances if, in fact, the  
13 community -- the monk community that is reportedly in  
14 Stockton is distinct from and not politically cohesive  
15 with Asian populations that are in Merced. If that's  
16 the case, then there was not effective political power  
17 with that 11 percent to begin with; and, therefore,  
18 eliminating the Stockton Finger didn't change the  
19 situation. That's really the argument. It's the  
20 totality of the circumstances. You haven't actually  
21 gone backwards on the effective participation in the  
22 political process for that group.

23 Now, let's go to the other extreme. Let's  
24 assume that the 11 percent Asian population together  
25 with Latinos are politically cohesive and both similar

1 and had effective participation together in elections,  
2 but now I think you would have reason to be concerned  
3 about them reducing the population to -- to 6 percent  
4 from the 11 percent.

5 And then your question also suggests another  
6 thing that ought to be considered, and that is a  
7 question -- I think it has been asked. But the  
8 question should be asked is there another way to  
9 maintain the 11 percent. And I don't know that there  
10 is, but it is at least worth asking.

11 COMMISSIONER YAO: Thank you.

12 COMMISSIONER FILKINS WEBBER: Commissioner  
13 Malloy.

14 COMMISSIONER MALLOY: Mr. Brown, one of your  
15 recommendations for us to take into consideration with  
16 our mappers was to request that they put together some  
17 sort of summary list regarding established communities  
18 of interest in the Los Angeles area along with a  
19 geographic boundaries that they would roughly  
20 correspond to.

21 My question is, how do you think about doing  
22 that for the rest of the state or your assessment on  
23 whether, in fact, we need to do that with the rest of  
24 the state? I know that we have had some conversation  
25 about tracking designated COIs. As a commission, I

1 believe we had tasked, if I'm remembering, the  
2 technical and legal team to think about this a little  
3 bit. So, clearly, L.A. is a more complex region, more  
4 densely populated. But by recommending we do this in  
5 L.A., are you inferring that you would not think we  
6 would need to have that same standard of documentation  
7 for the rest of the state?

8 MR. BROWN: Let me explain what I think some  
9 of the issues are. Because I think at the end of the  
10 day, what you need to do is make judgements informed by  
11 time limitations and resource limitations. At the end  
12 of the day, when the maps -- if the maps are  
13 challenged, per chance, and a particular region is  
14 focused on, and the challenge is that there was an  
15 incorrect basis for drawing the district somewhere, the  
16 commission is going to need to have evidence somewhere  
17 of what supported that conclusion.

18 And so in the area of Los Angeles, I'm asking  
19 that we undertake now to try to develop what we think  
20 the evidence is because it will help us evaluate  
21 whether the commission is comfortable with where it  
22 ends up.

23 In other areas, you may be -- if there are not  
24 lots of potential disputes in the area and the  
25 commissioners broadly agree that they heard all the

1 similar testimony, you could take a little more comfort  
2 in making that a lower priority in developing, you  
3 know, exactly what community of interest did we decide  
4 in this area. So it is really a judgement call. In  
5 areas that are more, you know, robustly debated, I  
6 think you want to be a little more vigorous about  
7 developing the record.

8 COMMISSIONER FILKINS WEBBER: Commissioner  
9 Dai.

10 COMMISSIONER DAI: Mr. Brown, this is a  
11 follow-up on Commissioner Yao's question on the  
12 Stockton Finger. So I actually looked back at the 1991  
13 maps and saw that the finger wasn't there. So this is  
14 just a hunch --

15 MR. BROWN: You mean the special maps just  
16 didn't include it?

17 COMMISSIONER DAI: That's correct. This is  
18 just a hunch, but I would posit that they knew the  
19 Stockton Finger was put there not to boost API voting  
20 power, but to boost democratic voting power. And I  
21 suspect that could be supported, if needed, by numbers.

22 But I guess my question -- because I don't  
23 know if we even need to go there. But my question is  
24 given that, you know, incumbent protection was a  
25 standard redistricting principle back in 2000, but it

1 is not this year, could that be part of our  
2 justification?

3 MR. BROWN: Yes. I think it would go into the  
4 discussion of the totality of the circumstances.

5 COMMISSIONER DAI: Thank you.

6 COMMISSIONER FILKINS WEBBER: Commissioner  
7 Ancheta.

8 COMMISSIONER ANCHETA: That is another point I  
9 was going to bring up. The other dimension, which I  
10 think -- and Mr. Brown can elaborate further. But one  
11 of the issues, of course, is whether the minority  
12 populations are small. And given revisions in  
13 Section 5 after 2006, where the focus is now on the  
14 ability to elect -- and basically the ability to elect  
15 means sort of a 50 percent mark. You don't  
16 necessarily -- well, you have to look at the numbers,  
17 obviously. But to the extent there may be coalitions  
18 building, that might affect your analysis.

19 But when the numbers are smaller, is  
20 11 percent too small? 5 percent is probably too small  
21 to say you have an ability to elect. As you get a  
22 little bit closer to 50 percent, you start thinking,  
23 "Well, maybe there is something there." So that's an  
24 issue. And I think at some point, we have to make a  
25 call and sort of say, "Well, given that, as

1 Commissioner Dai mentioned --" and it is pretty clear  
2 in the 2000 maps, and the 2001 maps, and 2001 Section 5  
3 submissions that they weren't thinking about Asians.  
4 They weren't. That's not in the submission. And no  
5 doubt -- I think our assumption is probably correct  
6 that it is because of the political partisan  
7 gerrymandering.

8 I think we have less to worry about. But,  
9 again, it is sort of thinking about, well, it is up  
10 there. Is it something that we really have to think  
11 about it? And I don't think there is a really clear  
12 answer regarding whether 11 percent is at that sort of  
13 threshold.

14 It is clear that because the law was changed  
15 in response to a Supreme Court decision that actually  
16 said you could sort of go below 50 percent to create  
17 influence districts, that the new statute -- or the new  
18 version of the statute really looks at the 50 percent  
19 mark as something you really should be more attentive  
20 to rather than the sort of smaller variations of the  
21 Senate. But, again, it is one of those calls where  
22 that's a significant number. Should we take a look at  
23 it or not?

24 MR. BROWN: I don't quite agree with your  
25 interpretation of where the law is, and I want to

1 explain that. But first let me say that I think  
2 directionally, if you follow the steps that we suggest,  
3 your decisions about district in the Merced area should  
4 be very comfortable.

5 The reason I don't disagree is because I don't  
6 think there has been case law interpreting what's  
7 happened between 2003 and today. And what happened was  
8 in Georgia versus Ashcroft in 2003, the U.S. Supreme  
9 Court evaluated a disagreement about whether one should  
10 be maximizing majority districts in protecting groups  
11 under Section 5 or whether other approaches like  
12 drawing influenced districts should be considered in  
13 evaluating retrogression. And the Supreme Court said  
14 that it's a totality of the circumstances test.

15 Now, Congress reacted strongly and amended the  
16 statute and may have created some unintended  
17 consequences. So Congress amended the statute because  
18 they wanted to make clear that where there is a  
19 preexisting majority, it needs to be protected. And  
20 that means where there is a preexisting ability to  
21 elect, meaning over 50 percent, it needs to be  
22 protected.

23 Now, if there was an interpretation that says  
24 that's all that matters, that would mean that Congress  
25 intended to narrow the scope of Section 5. I don't



1 think anyone has suggested, and I haven't seen anything  
2 written that suggests that Congress intended to narrow  
3 Section 5 when they amended the statute in 2006. And  
4 it remains to be seen how that will come out.

5 In the meanwhile, our view is there is still a  
6 totality of the circumstances test particularly when  
7 you're dealing with populations less than 50 percent.

8 COMMISSIONER ANCHETA: And I'm not differing  
9 with that basic opinion. Of course, Commissioner Yao  
10 wants to have that precision. Unambiguous law -- this  
11 isn't one of those areas where there is unambiguous law  
12 because we don't have a court case saying exactly what  
13 the law is, which is why lawyers might disagree over  
14 these matters. On the advice of counsel, we should  
15 rely on the advice of counsel.

16 MR. BROWN: But I do encourage any of you who  
17 hear legal arguments or have ideas, we want to hear  
18 them because that's how you get to the best and most  
19 appropriate result.

20 COMMISSIONER FILKINS WEBBER: One of the  
21 purposes of having Mr. Brown here is that we do have  
22 on the agenda today to make some decisions about  
23 Section 5. So I don't want anyone to come away not  
24 feeling that they have had all their questions  
25 answered.

1                   Mr. Brown, in looking at the worksheet that  
2                   you had prepared for us -- and I encourage all the  
3                   commission members that if they have any questions  
4                   regarding this, we'll probably be taking a look at it  
5                   when we have the discussion on Section 5 later today.  
6                   So if you have any questions for Mr. Brown.

7                   I have a question on here in your -- your  
8                   spreadsheet. You have on here, for instance, from  
9                   Merced, and I think in a couple of other areas, to  
10                  confirm the understanding of the term "Asian American"  
11                  as used in the Voting Rights Act.

12                  Can you tell me what your thoughts were in  
13                  that statement?

14                  MR. BROWN: Yes. We all know, because we live  
15                  in California, that there are many different subgroups  
16                  that people casually refer to as Asian. And the  
17                  federal Voting Rights Act doesn't make clear what it  
18                  meant when it used the term "Asian American." So I  
19                  wanted to make sure that we have an understanding of  
20                  what the mappers are using when they're accumulating  
21                  groups under the designation "Asian" so that we're  
22                  being consistent. I want to make sure we understand  
23                  what groups they're including and that they're being  
24                  consistent.

25                  COMMISSIONER FILKINS WEBBER: Being consistent

1 throughout the use of the term and how we use them  
2 through all of Section 5?

3 MR. BROWN: And Section 2.

4 COMMISSIONER FILKINS WEBBER: And Section 2.

5 The other question I have is if you can please  
6 advise this commission regarding your opinion on the  
7 two Board of Equalization districts that are covered by  
8 Section 5 and what your opinion is in that regard.

9 MR. BROWN: Yes. As I recall, the northern  
10 two draft BOE districts covered Section 5 counties.  
11 One of them was not retrogressive at all. And the  
12 other one had a similar issue as with some of the other  
13 areas we have looked at in that there are small changes  
14 that are going short of the benchmark for each of the  
15 groups. And the question really for the mappers is why  
16 can't -- I mean, there's only four districts. Can you  
17 make the maps so that they're not retrogressive at all?

18 And, again, it's not that you couldn't defend  
19 a slight change. It's just why not make it really easy  
20 by having them fully meet the benchmark.

21 COMMISSIONER FILKINS WEBBER: One other  
22 question I had is you had mentioned -- as I had stated  
23 earlier, the commission desires to make some decisions  
24 regarding Section 5.

25 What do you anticipate Mr. Barreto might be

1 able to assist you with in aiding this commission on  
2 Section 5 decisions that we might make?

3 MR. BROWN: I had a chance to speak with him  
4 this morning and talked about a number of issues, and  
5 we talked about this area. And I asked him to think  
6 about how we might evaluate whether there is any  
7 political cohesiveness between people categorized as  
8 Asian in Merced and the group that is in Stockton.

9 COMMISSIONER FILKINS WEBBER: Do you feel  
10 there is any information that he will provide to you  
11 that may impact your recommendations as you have made  
12 to this commission thus far that may, I guess, limit  
13 our ability to make some decisions today? Do you  
14 anticipate anything that might be significant?

15 MR. BROWN: What we try to do generally is  
16 using our judgement try to anticipate where things are  
17 headed in forming our advice. And so if something  
18 comes to our attention that would change the direction  
19 where things seem to be headed, we will let you know  
20 right away.

21 COMMISSIONER FILKINS WEBBER: Thank you.  
22 Commissioner Barabba.

23 COMMISSIONER BARABBA: It occurred to me in  
24 looking at the definition of "Asian," we want to make  
25 sure that the numbers that were used in 2000 are the

1 same ones we're comparing against 2010.

2 COMMISSIONER FILKINS WEBBER: Commissioner  
3 Ancheta.

4 COMMISSIONER ANCHETA: And I think the  
5 specific question -- this is a question we have to ask  
6 Q2, what they're using. The Voting Rights Act uses the  
7 term "Asian American." And since 2000 at least,  
8 there's been a break -- there used to be Asian Pacific  
9 Islanders, a specific number. Since 2000, it is Asian  
10 American as one category, and then Pacific Islander as  
11 a separate category. And I think we'll have to check  
12 with Q2. I think Q2 is just using Asian only. But I  
13 don't know that for sure. I think we casually just use  
14 API because we're using API shorthand for those two  
15 groups.

16 But officially they are separate groups under  
17 the census data. And the statute, I think, would not  
18 include. But that needs to be confirmed as well. That  
19 Pacific Islanders are not within the coverage of the  
20 act strictly speaking. We need to get Q2's answer to  
21 that.

22 COMMISSIONER FILKINS WEBBER: Could that be  
23 problematic if Pacific Islanders are not covered under  
24 Voting Rights Act? Is that what you're saying? And  
25 yet they're -- and yet they're being included in the

1 API number. That if we get this information from Q2  
2 that is forming whether we're reaching the benchmark on  
3 Section 5 and not retrogressing, are we really talking  
4 about the same group? Is that what your concern is?

5 MR. BROWN: At this point I would like to move  
6 one step and get more information. Commissioner  
7 Ancheta may know more about this. But the question in  
8 my mind is what did Congress mean when it used the term  
9 "Asian American" in 1982. And if they didn't say  
10 anything about it in the legislative history, then it's  
11 a question for us about what do we think should be  
12 included.

13 So I want to start by understanding what the  
14 mappers are doing. I would like to get Commissioner  
15 Ancheta's views if he has some information about this.  
16 But that is -- the starting point would be what did  
17 Congress mean in 1982 when they used that phrase. If  
18 they didn't mean anything in particular, then we have  
19 to make some judgements.

20 COMMISSIONER FILKINS WEBBER: Commissioner  
21 Blanco.

22 COMMISSIONER BLANCO: So this is both a work  
23 plan and a legal question. So in terms of the work  
24 plan, in the work plan that you provided us -- and you  
25 have mentioned it earlier today about in Santa Ana,

1 looking at adjacent population to see if there is a  
2 compact over 50 percent CVAP for Latinos, because then  
3 it could potentially be a Section 2 and then we would  
4 have to do RPV analysis.

5 MR. BROWN: Right.

6 COMMISSIONER BLANCO: So that would be the  
7 sequence. We almost have to have first a response from  
8 Q2 about whether there is the potential of an over  
9 50 percent, and then we need to get that to --

10 MR. BROWN: Well, we don't have to go  
11 seriatim. I could ask that question to our analyst and  
12 see if he could add it to his list.

13 COMMISSIONER BLANCO: Right. Because that way  
14 -- I'm just worried if we do that, first we go through  
15 Q2, then we go to the analyst, and then we're way down  
16 the road.

17 The other question I have concerns this whole  
18 area of our map both in Assembly and in congressional.  
19 One of the -- I think -- I'm not positive about this at  
20 all, but I think one of the reasons that that area of  
21 the map is complicated is because we have very, very  
22 clearly defined community of interest testimony from  
23 Asian communities that testified in that area, the  
24 Westminster -- you know, that whole sort of -- I don't  
25 know if it is a corridor. It is more like a nucleus of

1 various Asian communities in that area west of  
2 Santa Ana. And so we were very mindful of that in our  
3 maps.

4 And I just -- I'm wondering what legally,  
5 given our criteria, if we did that, and in doing that  
6 we potentially didn't draw in something that could have  
7 made over 50 percent Latino CVAP, aren't we at risk of  
8 having not gone in order of the criteria?

9 MR. BROWN: Yes. So that's why you ask the  
10 question, is there an adjacent population. Because if  
11 you're over 50 percent, then that could take priority.

12 COMMISSIONER FILKINS WEBBER: Commissioner  
13 DiGuilio.

14 COMMISSIONER DiGUILIO: This is just a  
15 statistical note. Just for the sake of trying to keep  
16 the discussions that are going to occur later on  
17 going -- and I think Mr. Brown is okay with this. That  
18 if we refer to what Gibson Dunn put together as a task  
19 list, and that the work plan that will be coming from  
20 the commission will be something different, just to try  
21 and keep our work plans separate, if that's okay.  
22 Thank you.

23 COMMISSIONER FILKINS WEBBER: Any other  
24 questions? Commissioner Aguirre, I apologize.

25 COMMISSIONER AGUIRRE: Yes. I had a question



1 about retrogression. In a couple of the Section 5  
2 counties, we had retrogression not only in the Latino  
3 CVAP but in the Asian and Black CVAP.

4 Are we -- how much -- what would be your  
5 opinion in addressing all retrogression for all three  
6 groups, or should we primarily look at the Latino CVAP  
7 being that that is a primary minority group in that  
8 area?

9 MR. BROWN: Our view is that you have to look  
10 at all groups, and that the preference is to see if you  
11 can make all of the groups equal or exceed the  
12 benchmark. If you can't with the small populations  
13 give a narrative explanation for why -- what was tried  
14 and why, it is not feasible. And I think for the  
15 smaller populations percentagewise, it's unlikely that  
16 the DOJ could bring a successful plan.

17 What I want to help the commission avoid is  
18 any ability to be challenged on the Section 5 areas,  
19 even if it is a reason that ultimately wouldn't  
20 prevail. In at least one of the Supreme Court  
21 decisions, the Supreme Court has said that if you meet  
22 or exceed the benchmark, that's the end of the inquiry.  
23 There is no Section 5 violation.

24 So you make it easy for yourself if you can  
25 get all the way there, even though there are lots of

1 arguments about why we don't actually have to do it.

2 COMMISSIONER FILKINS WEBBER: Any other  
3 questions? Commissioner Dai.

4 COMMISSIONER DAI: I'm curious. I mean, we  
5 have spent a lot of time comparing numbers, which  
6 obviously we can do without the legal power that you  
7 have. I'm curious if there is any history of the DOJ  
8 bringing suit for these smaller populations?

9 MR. BROWN: I'm not aware of any. There is  
10 some case law that suggests that the smaller  
11 populations wouldn't have an effective claim.

12 COMMISSIONER FILKINS WEBBER: Any other  
13 questions of Mr. Brown? I'm seeing none.

14 Anything that you would further like to add in  
15 summary of your statements today, Mr. Brown?

16 MR. BROWN: Only that we likely have specific  
17 comments on various districts, and at some point we  
18 should find a way for us to communicate those to you.

19 COMMISSIONER FILKINS WEBBER: We did receive a  
20 list. What were your thoughts on how the commission  
21 should address that? Because we're going to get into  
22 developing a commission work plan later on today, and  
23 it is in our agenda how you see your recommendations  
24 and your thoughts in that regard playing into what we  
25 need to accomplish.

1 MR. BROWN: I think it would be useful if the  
2 commission work into its schedule specific times for us  
3 to talk about the specific district-by-district  
4 comments that we might have, including the list we sent  
5 around. And if not on the same day, a specific  
6 discussion about the Senate districts. Once an area of  
7 Assembly districts is settled, it might be useful then  
8 to address the Senate districts with these specific  
9 comments and choices that were made.

10 COMMISSIONER FILKINS WEBBER: Do you feel it's  
11 beneficial that you would run through Assembly  
12 districts first? Let's say, for instance, if we invite  
13 you back on -- in our next business meeting, which is  
14 next week in Fresno, and you were to focus on the  
15 Assembly districts, then this commission could actually  
16 make decisions with its line drawers next Thursday,  
17 come to some conclusions regarding those Assembly  
18 districts, and then have you come back and look at the  
19 decisions we made as to Assembly so then you could  
20 render an opinion to us regarding Senate? Is it taking  
21 it on --

22 MR. BROWN: That order makes sense.

23 COMMISSIONER FILKINS WEBBER: I know I might  
24 be infringing a little bit on maybe Commissioner  
25 DiGuilio's idea of a work plan. But just if that

1 hadn't come up, that might be workable to put it in  
2 that type of structure.

3 MR. BROWN: We would have to work out the  
4 specific things.

5 COMMISSIONER FILKINS WEBBER: Commissioner  
6 DiGuilio.

7 COMMISSIONER DiGUILIO: I apologize, I can't  
8 quite do this at the same time. Excuse me. I think  
9 that one of the things that Commissioner Ancheta and I  
10 have been recognizing, as we all have, is the limited  
11 time that we have with the need to really get through  
12 some of this analysis. So we really do see some dual  
13 tracks going on here, and that it's not -- I think we  
14 all probably recognize there is some significant  
15 changes that need to be addressed in errors on our  
16 maps.

17 And so the idea of what we'll be proposing is  
18 some of this is going to take place as we go along. So  
19 when we get to the line drawing, we're not all of a  
20 sudden checking through some of these issues. That  
21 we're going to try, as we have already done, to  
22 identify some of the areas.

23 And in an effort to try and maximize all of  
24 our consultant's time, too, our idea is instead of  
25 having so much comments by Gibson Dunn on these maps --

1 first maps is I think there is going to be a  
2 recognition that we're going to change them. And as  
3 we're changing them, in this process, that we will have  
4 the involvement of Gibson Dunn so they can kind of, for  
5 lack of better word, make some recommendations in real  
6 time as we're going through this.

7 And then also once we have made -- we can only  
8 go so far until we actually do the physical line  
9 drawing. I think we can get good progress on these  
10 issues prior to our line drawing sessions. But,  
11 hopefully, we will have been able to vet through at  
12 least enough issues that it will keep us on track. And  
13 then once we get to the line drawing sessions, we will  
14 hopefully have worked through those big problems. And  
15 then, again, Gibson Dunn can continue to build in time  
16 during our line drawing sessions so that they can  
17 review what we have done.

18 And part of that is an extension of some of  
19 our line drawing sessions to accommodate the need for  
20 us to get it right and for enough review by our legal  
21 team, if that kind of gives you an overview. And I  
22 don't know if Commissioner Ancheta would like to build  
23 upon that as well.

24 COMMISSIONER ANCHETA: We're going to pose  
25 this in our discussion because -- we are going to

1 propose some sort of parallel tracking so there is some  
2 ongoing analysis starting really today. Section 5 maps  
3 are really close to being what they will be. For the  
4 Section 2 districts, we want to really get a head  
5 start. And we're going to pose a couple of questions  
6 regarding how much -- how much delegation of  
7 responsibility and how much you actually would want to  
8 see Dunn going into the first line drawing meetings.

9 That's a significant question as to who does  
10 what and how much you want to do. If you want to  
11 really do a lot of work preliminarily, a lot can be  
12 done. But it means delegating significant  
13 responsibilities. If it is really something that the  
14 commission as a whole really wants to dig in at the  
15 first line drawing session, that's another way to look  
16 at it. You'll get less done ahead of time.

17 In either case, I think we have to make sure  
18 in this round that VRA counsel is there in the room  
19 with us, and so it is not sort of the back and forth  
20 and increasing the number of steps in between our  
21 instructions and Q2s working on the maps, and they're  
22 coming back. At least things are moving all together  
23 at the same time.

24 COMMISSIONER DiGUILIO: And can I just say, if  
25 that wasn't a little bit of a hint by Commissioner

1 Ancheta, we will be coming to you about increasing your  
2 involvement on some of these responsibilities. So have  
3 that in the back of your mind about how you would love  
4 to step up in the future.

5 COMMISSIONER FILKINS WEBBER: Any further  
6 questions of Mr. Brown?

7 Thank you very much, Mr. Brown.

8 MR. BROWN: See you soon.

9 COMMISSIONER FILKINS WEBBER: At this time,  
10 we'll take a five-minute break.

11 (A brief recess was taken.)

12 COMMISSIONER FILKINS WEBBER: What we would  
13 like to do now -- in looking at the agenda, we're ahead  
14 of schedule, which is good. We're moving into the  
15 legal advisory committee discussion topics, and they  
16 are -- they are going to be taken out of order and,  
17 again, based on priority. So we're moving down to  
18 Item 3-A, which is a discussion of the Gibson, Dunn &  
19 Crutcher Section 5 memo and the decisions we may need  
20 to make on instructing Q2.

21 So this is what I was alluding to earlier and  
22 was the purpose of having Mr. Brown come in as well,  
23 which is that we need to make a decision on how we're  
24 going to instruct our line drawers based on the advice  
25 of counsel.

1           So what we'd like to do today -- and we also  
2     have confirmed with Q2, and Bonnie has made  
3     arrangements with Christian, to get audio files. And  
4     we do have a transcript running. So although Kyle, our  
5     typical notetaker, is not here today, we feel  
6     comfortable that Q2 is aware we will be providing  
7     specific directions if we can reach a decision  
8     regarding these areas. And, therefore, they will be  
9     obtaining the transcript and audio of this meeting. So  
10    we can feel free to make decisions and instruct Q2 in  
11    that regard.

12           So in the manner in which we would like to  
13    proceed, it does make it a little more difficult  
14    because we do not have mappers here. We don't have the  
15    customary maps in front of us, but we do have access to  
16    them online as does the public. So that's how we're  
17    going to proceed with discussions based on the advice  
18    of counsel that we have received today.

19           So we'll just go in order of the manner in  
20    which Gibson, Dunn & Crutcher had put that together on  
21    their worksheet -- their spreadsheet. And so we'll  
22    take it first by Assembly district and then Senate  
23    district and congressional and move forward for each  
24    one.

25           So the first one on there is, I believe,



1 Kings.

2 Yes, Commissioner Malloy.

3 COMMISSIONER MALLOY: In looking at our  
4 website, I don't actually see this document posted to  
5 the website yet. Is that going to be available to the  
6 public today? We're talking about the work plan -- not  
7 the work plan, the --

8 COMMISSIONER FILKINS WEBBER: It's the CRC  
9 spreadsheet from Gibson Dunn. I may have failed in  
10 advising staff to put it up. But essentially it's  
11 everything -- it's what they have highlighted as being  
12 retrogressive. So it is everything that pretty much  
13 Mr. Brown had spoken about before. If they can put it  
14 up today, I can ask them.

15 MARION JOHNSTON: If you can e-mail it to  
16 Janeece, she will post it.

17 COMMISSIONER MALLOY: I'll e-mail it right  
18 now.

19 COMMISSIONER FILKINS WEBBER: Thank you.

20 So in looking at Kings County, Commissioner  
21 Dai, did you say that you had some of the benchmark  
22 numbers?

23 COMMISSIONER ANCHETA: I believe that was  
24 labeled as work product. I'm not comfortable  
25 necessarily with that posting. I would like to

1 confirm that. I believe it was listed as "Confidential  
2 work product," I believe. I don't have it right in  
3 front of me right now.

4 COMMISSIONER FILKINS WEBBER: Okay. We'll  
5 take a look at that. So hold on that, staff. But it  
6 doesn't change what we need to get done today. We'll  
7 take a look at that.

8 Who did you send it to, Connie, Janeece?

9 COMMISSIONER MALLOY: I sent it to Janeece and  
10 Ms. Shupe. But I'll send a follow-up e-mail letting  
11 them know to hold off.

12 COMMISSIONER FILKINS WEBBER: Okay. Thank  
13 you.

14 As the public may or may not be aware, we have  
15 retained attorneys. And under those circumstances,  
16 they perform their own work. And in doing so, they  
17 render their own opinions and come to certain  
18 conclusions. Under those circumstances, their work is  
19 protected by what's considered a work product  
20 privilege. And under those circumstances, their work  
21 is protected unless during litigation it may be  
22 compelled to be produced.

23 At this time we'll look into it further  
24 whether the essential work -- the spreadsheet they  
25 provided to us is covered by the work product

1 privilege, and we'll confirm that. If not, we will  
2 proceed with our customary practice of transparency and  
3 provide that.

4 In the meantime, again, most of what we have  
5 been discussing on Section 5 that we heard from  
6 Mr. Brown will aid us in our decisions and  
7 determinations of each of these districts that we would  
8 like to make decisions on for Section 5 purposes.

9 Beginning with Kings County, does anyone have  
10 the benchmark? I can pull it up now. We wanted to get  
11 through it. I thought they were on the maps, but it  
12 doesn't appear that they are.

13 It is my understanding that the -- I believe  
14 we reached the benchmark as to the Latino VAP. And  
15 there's a 1.5 percent drop in Asian VAP and the Black  
16 VAP. So based on the advice of counsel, we have -- and  
17 those are the lower numbers. So based on the advice of  
18 counsel -- oh, excuse me. Let me back up. We're  
19 talking about the Assembly district.

20 Based on the Assembly district, there does not  
21 appear to be any retrogression in Kings County for the  
22 Assembly for any of the groups. So the decision that  
23 the commission would need to make is that we would  
24 basically not be making any changes to the Assembly  
25 district for Kings County at that level. I don't know

1 that we need to move forward with a vote or not.

2 Commissioner Dai.

3 COMMISSIONER DAI: Yes. I have a suggestion.

4 As I recall, there were only kind of two districts

5 that, you know, based on advice of counsel that we

6 probably really need to think about. One is the Merced

7 district and to discuss the Stockton Finger issue; and

8 the other one was one of the Monterey districts, which

9 actually retrogressed Latino CVAP.

10 COMMISSIONER FILKINS WEBBER: And you're

11 correct, that that does require additional discussion.

12 What my thought was -- and I'm certainly open to

13 anybody else's suggestions in this regard. As we

14 understand it, these areas are affecting any other

15 district that's drawn around it.

16 So if we have a consensus that we're not going

17 to change any of them -- that's why I wanted to run

18 through them and run through them by county. And so if

19 we can go through them quickly and have a confirmation

20 that the commission understands that there wouldn't be

21 any changes to those, that certainly there would be no

22 need for discussion. But then we're not changing those

23 districts if we are satisfied with the manner in which

24 they're drawn presently. Because they're meeting --

25 they're not retrogressive. They meet the benchmark

1 let's say, for the Assembly district in Kings.

2 But I'm taking it step by step only because we  
3 will get into a healthy discussion of the others. But  
4 if we can have confirmation on that, we don't need to  
5 come back to that issue later on. Whether it requires  
6 a vote that we're confirming -- agreeing that we're  
7 accepting it, I'll just move on if we don't feel that a  
8 vote is necessary for those individually.

9 Okay. Then moving on as far as -- actually,  
10 I'm still in Kings just real quick. I'm just going  
11 down. So as to the Assembly district in Kings, we  
12 already said we met the benchmark as to all of them.  
13 So that looks good per our counsel.

14 The Senate district for Kings County appears  
15 to be one percent drop in the Asian VAP and appears to  
16 be nonretrogressive, except for that one percent; and  
17 that's what he was talking about earlier.

18 COMMISSIONER YAO: Question and clarification,  
19 who made the comments? Is it Q2 or Gibson Dunn?

20 COMMISSIONER FILKINS WEBBER: Gibson Dunn.

21 COMMISSIONER YAO: So what is the definition  
22 of "appeared to be"?

23 COMMISSIONER FILKINS WEBBER: Because of the  
24 one percent drop, the difference between the one  
25 percent and the benchmark. So the Asian benchmark is

1 5.61 percent for Asian VAP. The proposed district is  
2 4.75 percent. The Asian CVAP for the benchmark is 5.19  
3 percent. The proposed is a little higher at 6.53. So  
4 this is where he had given us advice that we may need  
5 to go back to Q2 for additional information on the  
6 Asian CVAP for Kings County.

7 COMMISSIONER ONTAI: Chair Filkins Webber, so  
8 on the column "Responsibility," Q2 and GEC, are they  
9 going to follow up on these questions?

10 COMMISSIONER FILKINS WEBBER: If we're  
11 providing instructions today to Q2 for these districts.  
12 So given the difference between the CVAP and the VAP  
13 for Asian for Kings County under the Senate, the  
14 instruction would be that Q2 would need to provide us  
15 additional information pursuant to Gibson Dunn's  
16 recommendation that the commission instruct them on the  
17 difference between the two. Because if -- if they can  
18 clarify that issue -- because we're just looking at  
19 Asian VAP. If they can provide us confirmation on  
20 their proposed CVAP for Asian, which is 6.53, then we  
21 probably wouldn't have any -- be retrogressive right  
22 now --

23 COMMISSIONER ONTAI: Yes.

24 COMMISSIONER FILKINS WEBBER: -- on the Senate  
25 districts.

1 COMMISSIONER ONTAI: I see.

2 COMMISSIONER FILKINS WEBBER: So the  
3 instruction essentially, based on the advice of  
4 counsel, is to instruct Q2 to provide additional  
5 information on the CVAP and to probably search their  
6 database in the census information that we had talked  
7 about before to see if they could prevent the  
8 retrogression.

9 COMMISSIONER ONTAI: All right.

10 COMMISSIONER YAO: It has a start date and due  
11 date. Do we need to get into deadlines?

12 COMMISSIONER FILKINS WEBBER: We need to  
13 confirm the accuracy of this CVAP.

14 COMMISSIONER BLANCO: So my question would be,  
15 I think I heard Mr. Brown to say -- and maybe, folks,  
16 we should decide on this -- that he felt it was  
17 sufficient to look at VAP for the retrogression issues  
18 on these small -- smaller populations. So let's make  
19 sure we're all looking at the same thing.

20 COMMISSIONER FILKINS WEBBER: This is what he  
21 said earlier today, he said that you do not have to use  
22 CVAP for Section 5. You use VAP as the benchmark. And  
23 based on the information that we have here, that's  
24 where the one percent is at. So if you're looking at  
25 the benchmark numbers, again, just going off of -- so

1 the instruction to Q2 would be not to be retrogressive,  
2 advise us where you can obtain additional Asian  
3 population or API population for Kings County at the  
4 Senate district level. And if you cannot find the  
5 additional population to meet the benchmark, then to  
6 provide us a written explanation regarding why you  
7 cannot reach the benchmark for Kings County in the  
8 Senate district.

9 COMMISSIONER ONTAI: Chair Filkins Webber, so  
10 going back to the columns where it says "Start date"  
11 and "Due date," do we instruct them with some dates?  
12 Is this part of the work plan? I'm not sure.

13 COMMISSIONER DiGUILIO: This is part of the  
14 work plan. This is where Angelo and I will be really  
15 coordinating between these two groups in order to make  
16 sure these questions are answered or resolved. So what  
17 is important is the process we're going through right  
18 now, is identifying what issues. Because on the task  
19 list, there is a multitude of things going on. We need  
20 to really focus on those things that need to be  
21 answered for us. We're doing a great job, and I would  
22 like to continue that. I know that the timeline will  
23 be incorporated by the work plan.

24 COMMISSIONER ONTAI: Thank you very much.

25 COMMISSIONER FILKINS WEBBER: Sorry I confused



1 you earlier on the CVAP and VAP. I confused the  
2 discussion earlier.

3 So if the commission agrees, that would be the  
4 instruction to Q2 for the Senate district for Kings  
5 County. No objections? Terrific.

6 Moving on, the congressional district for  
7 Kings County, it appears there is a 1.5 percent drop in  
8 the Asian VAP and the Black VAP; and it appears to be  
9 nonretrogressive. The benchmark for the Black VAP is  
10 6.95 percent. The proposed district is 5.39 percent.  
11 The benchmark for the Asian VAP is 5.41 percent, and  
12 the proposed is 3.99.

13 So, again, based on the advice of counsel, the  
14 recommendation would be to instruct Q2 to find  
15 additional populations so as to make this congressional  
16 district for Kings County not retrogressive. And to  
17 the extent that they're unable to for the Asian VAP and  
18 the Black VAP, to provide us a written explanation  
19 regarding why they are unable to do so. So agreed?

20 Moving on to Merced Assembly district,  
21 according to our counsel --

22 COMMISSIONER YAO: Chair Filkins Webber.

23 COMMISSIONER FILKINS WEBBER: Yes,  
24 Commissioner Yao.

25 COMMISSIONER YAO: The deviation number, it is

1 also likely to change. And shall we consider that  
2 before trying to work the percentage on the  
3 retrogression? In other words, if we're satisfied with  
4 the deviation in the case of the Kings County -- is  
5 that what we have decided? You get caught in a  
6 situation that if you resolve the retrogression, you  
7 have the population, you may end up having to redo it.  
8 So we probably need to get direction on each of these  
9 by districts.

10 COMMISSIONER FILKINS WEBBER: You mean on  
11 population deviation?

12 COMMISSIONER DiGUILO: Right. We already have  
13 population deviation. My only -- I wouldn't be  
14 concerned about it. I want them to tell me where they  
15 may have a problem with population deviation. The  
16 difficulty doing that without having mappers is because  
17 we wouldn't be able to discern --

18 COMMISSIONER YAO: I'm just concerned about  
19 the population.

20 THE REPORTER: Can we go off the record  
21 quickly. My computer froze.

22 (A brief recess was taken.)

23 COMMISSIONER FILKINS WEBBER: Commissioner  
24 Dai.

25 COMMISSIONER DAI: Yes. I think what

1 Commissioner Yao is trying to say is that if the  
2 population deviation changes, it will necessarily  
3 change all the percentages. So we have to decide  
4 whether we're going to stick with that deviation.

5 For example, this deviation for Kings is  
6 extremely low. If we wanted to, you know, allow for  
7 the flexibility that the law provides, it would also  
8 change the -- you know, the numbers. It would change  
9 the benchmark. It would change the proposed district,  
10 as well.

11 So I think the question is a really good one,  
12 which is are we going to assume that we hold population  
13 deviation where it is now? Do we want to give Q2 the  
14 flexibility to play with the population deviation a bit  
15 because it might change our retrogression numbers?

16 COMMISSIONER FILKINS WEBBER: Any other  
17 thoughts? Commissioner DiGuilio.

18 COMMISSIONER DiGUILIO: This discussion with  
19 deviation again is going to come up a little bit later.  
20 Because part of the issue is -- though I understand in  
21 looking back at our motions, we had a motion for the  
22 allowable deviation for a first draft map. I believe  
23 it was just mentioned in the first draft. Then we have  
24 a deviation set right now for our final. Those are  
25 significantly different in a tighter -- a tighter

1 deviation. So we may want -- I think it is worth us  
2 having a discussion. If we want to continue with that  
3 type of deviation, it will mean that in our second  
4 draft maps there will be significantly more cuts to  
5 cities and other things because we have some -- some of  
6 those deviations that are larger now than what we have  
7 set for final maps.

8 So if we would like to -- we have to  
9 understand that if we're staying with that deviation,  
10 it is going to result in more splits. Or if we would  
11 like -- actually, a lot more. Or if we would like to  
12 revisit this issue and consider another direction --  
13 because really the deviation set for the final maps is  
14 that which is going to be set for the second draft  
15 maps.

16 So, again, we look at what's happened right  
17 now and understand the implications of our current  
18 deviation, which is a very tight one. So I'm not sure  
19 what the chair would like to do with that discussion at  
20 this point.

21 COMMISSIONER FILKINS WEBBER: Well, before we  
22 can make any decisions and moving on in a further  
23 direction, the commission should make a decision  
24 whether we stick to the deviation or in our  
25 instructions strive for the decisions that we made on

1 deviation for the second draft map. Because our idea  
2 is that whatever the iteration they come up with or if  
3 we leave it as a working iteration that they come back  
4 to us for.

5 Commissioner Barabba.

6 COMMISSIONER BARABBA: As I recall, your  
7 initial direction you said make the change or come back  
8 and tell us why you can't. And it seems to me that if  
9 they make a change and they get the deviation over what  
10 we requested, they should come back and tell us; and  
11 then we can make a judgement at that point. But it is  
12 kind of hard to say that in lieu of knowing what the  
13 consequences are.

14 COMMISSIONER FILKINS WEBBER: Commissioner  
15 Dai.

16 COMMISSIONER DAI: So, again, to use a very  
17 concrete example, for Kings, I believe the deviation is  
18 .253 percent. And even by our tight standards, it  
19 could be one. So my question is, do we want to give Q2  
20 the latitude to use that population deviation because  
21 it will change our retrogression? It may help improve  
22 them, and it may not. But the point is it could help  
23 improve them.

24 COMMISSIONER FILKINS WEBBER: Commissioner  
25 Blanco.

1 COMMISSIONER BLANCO: That's what I was going  
2 to recommend, is that since we already said here we  
3 already know what our deviation is for the next and  
4 final maps, the two percent total deviation. I think  
5 we could give an instruction on all of these districts,  
6 even not Section 5, but all the changes that we're  
7 going to be instructing them to make, that they have  
8 the ability to go up to a total of two percent if  
9 necessary.

10 But, you know, that if they can keep the  
11 percent -- you know, if they have a percentage that's  
12 lower than two percent and they can keep it, they  
13 should try and keep it. But I do agree that if we  
14 don't give that instruction now that they can do that,  
15 you know, the constitutional mandate of two total, then  
16 they might not be able to do what we're asking them to  
17 do throughout these maps.

18 So I would agree concretely right now on  
19 Kings. I would agree we can tell them if going up to a  
20 total of two helps them minimize the retrogression,  
21 which is after all a significant issue with the  
22 Department of Justice, that we do so.

23 COMMISSIONER DiGUILIO: To clarify,  
24 Commissioner Blanco, what we have in our motion is not  
25 two percent. It's one percent. So they can only go up

1 to one percent. Currently these maps were drawn  
2 allowing them to go up to five percent. So if you can  
3 imagine the amount of difference between five percent  
4 and one percent, it's going to be very tight.

5 So technically the motion is really only one  
6 percent for final maps as written, and the second  
7 motion was in response to the first draft. So there is  
8 nothing on record for the second draft. But I would  
9 assume -- maybe we should make this assumption. But  
10 the second draft map really is the iteration of the  
11 final draft map. So right now it would be -- as  
12 written it is one percent total.

13 COMMISSIONER YAO: That's what I recall.

14 COMMISSIONER FILKINS WEBBER: Commissioner  
15 Dai.

16 COMMISSIONER DAI: I have a legal question.  
17 In a case where we determine we, in fact, have to draw  
18 certain Section 2 districts, but it requires a greater  
19 population deviation to do that, wouldn't that really  
20 put us at legal risks, since the constitution actually  
21 gives us a much wider range of population deviation? I  
22 mean, we are choosing to impose this very tight  
23 population deviation. But from my understanding of the  
24 law, it's presumed to be reasonably equal for  
25 legislative districts if it is a total deviation of

1 10 percent.

2 So I'm just wondering if we're putting  
3 ourselves in a difficult spot here because of the tight  
4 population deviation, that we might end up running  
5 afoul of DOJ.

6 COMMISSIONER FILKINS WEBBER: Well, you are  
7 talking about two different standards again. You're  
8 talking about federal constitution standards, which is  
9 a ceiling. Then you have the state standard, which is  
10 the floor. So if you would like, I can pose that  
11 question to Mr. Brown as additional, unless  
12 Commissioner Ancheta --

13 COMMISSIONER ANCHETA: And I think we had this  
14 discussion. We can revisit our earlier discussions,  
15 and that's okay. Sometimes our memories fail. So for  
16 that discussion -- and I was not in on the call where  
17 there was a discussion with Gibson Dunn regarding those  
18 source of law regarding the one percent deviation. So  
19 my recollection of that discussion -- and those of you  
20 that were on the call should just realize this is, in  
21 essence, an actual attorney giving the advice.

22 If it is a state constitutional mandate that  
23 it be one percent, then we should follow that, even  
24 though there may be some potential conflicts with the  
25 federal law. If it is not a state constitutional



1 mandate, as opposed to just sort of a guideline that  
2 has been adopted in previous -- by the Supreme Court of  
3 California in its line drawing capacity, not in a court  
4 litigating a case necessarily, that's different.

5 Again, what I think the commission is free --  
6 we can go to zero, if we want. And I think we would  
7 like to go to zero if we could. And if all these  
8 things sort of lined up, that would be great.

9 But I think there is this issue around whether  
10 it is required under the state constitution to do a one  
11 percent, versus as a policy matter we would like to do  
12 one percent. And perhaps we didn't leave room for  
13 exceptions, whether we want to allow some exceptions  
14 for particular deviations, including the Voting Right  
15 Act in particular, for others as well.

16 We will, of course, have more city and county  
17 splits. That is inevitable given -- as we know from  
18 the congressional districts, that's an inevitable  
19 consequence. But I think we need clarify whether it's  
20 a state mandate versus a state -- a good state  
21 guideline that we ought to follow. Because if it's a  
22 guideline, I think we should think about whether we  
23 should create an exception of some kind. If it is a  
24 state constitutional mandate, I think -- because we  
25 have some tensions between some getting sued in state

1 court versus getting sued in federal court, which I  
2 think are hard to resolve.

3 COMMISSIONER BLANCO: I think we should  
4 propose this in a more precise pointed way to counsel.  
5 We have discussed it. What I recall Mr. Kolkey saying  
6 on this issue was that obviously the closer we got to  
7 zero the better, particularly since the technology is  
8 there to be able to do that. But that if we were -- if  
9 we had a consistent policy for when we deviated, you  
10 know, that that was the most important thing under the  
11 way that the law's been interpreted constitutionally in  
12 California, is to have a consistent policy, for it not  
13 to be arbitrary or irrational.

14 And so I think that the point we should ask  
15 them pointblank is if we need to go beyond zero to meet  
16 Section 2, then is that something that they, in their  
17 legal, you know, advice to us, think falls within the  
18 language of the Constitution that says -- what's the  
19 phrase -- as practicable as possible? I think that's  
20 the question to pose to counsel from my perspective.

21 COMMISSIONER FILKINS WEBBER: Commissioner  
22 DiGuilio.

23 COMMISSIONER DiGUILIO: In addition to that  
24 question -- and I don't know that this is for our VRA  
25 attorneys or for our own legal counsel. But I would

1     also like to pose what's allowable if we have a  
2     consistent standard. Because I was one of those, when  
3     this vote came up, that preferred to have a tighter  
4     standard. Let's just make it closest to zero as  
5     possible.

6             But I would like to know if there is a rule --  
7     what does the law allow us in terms of, let's say --  
8     I'm looking at a lot of what we did already, and I  
9     recognize that if you say in the Assembly about one  
10    percent is about 10,000 people or so -- it's about  
11    10,000 people. So if we're at a one percent, and you  
12    go up to -- excuse me, four percent, and if you go up  
13    to four or five percent, and it is a legally allowable,  
14    you could actually reduce the amount of splits of  
15    cities if you're adding 20,000 more people in it.

16            So to me the tradeoff, now looking at the  
17    implications as Commissioner Barabba said earlier, is  
18    what are the implications of a tight deviation versus a  
19    higher one. And if the law allows us -- I would like  
20    to know if the ruling is to allow us to go up to the  
21    maximum amount regardless of VRA issues. And that's  
22    where I'm not sure if it's the VRA attorney or our own  
23    legal counsel or Commissioner Ancheta.

24            COMMISSIONER ANCHETA: I'm not the commission  
25    lawyer.

1 COMMISSIONER DiGUILIO: With his input. I  
2 would suggest a legal advisory committee maybe, because  
3 I would like to know what the laws allows. I would  
4 like to take into consideration the impact it has for  
5 issues outside VRA, like splits, because my ability to  
6 support a lower deviation wavers when it comes to  
7 implications of that.

8 COMMISSIONER FILKINS WEBBER: Unfortunately,  
9 what we have heard from our lawyer, in reviewing my  
10 notes of that conversation, is if you can develop a  
11 policy that is consistently applied throughout all of  
12 the districts. So I'm a little hesitant to say that we  
13 can actually have, quote, unquote, "exceptions" for  
14 Section 2 based on what Commissioner Dai and  
15 Commissioner Ancheta had said, because that would  
16 necessarily be consistently applied criteria for all  
17 districts if you allow greater population deviation  
18 just for Section 2 purposes.

19 Commissioner Dai.

20 COMMISSIONER DAI: I actually disagree because  
21 it's basically a consistent policy about applying the  
22 Voting Rights Act. And I was going to say it is not  
23 just for Section 2, it's for Section 5 as well.  
24 Because this discussion came up when Commissioner Yao  
25 brought it up for Section 5. He's absolutely right

1 because if the population deviation were greater, we  
2 may actually be able to increase the VAP for the  
3 smaller populations. I mean, it may not be enough to  
4 not totally retrogress, but it would be better.

5 And the question, as counsel posed, really  
6 that would come up is could we do better. And we show  
7 that we could do better if we increase the population  
8 deviation. Aren't we putting ourselves at risk? That  
9 was really my question. Because we can do better, I  
10 suspect, in several of these counties. And the reason  
11 it's as bad as it is in certain of the districts is  
12 because the deviation is too tight.

13 So I would say the consistent policy is to  
14 look at, you know, better compliance with the Voting  
15 Rights Act, and obviously that would apply to the whole  
16 state for Section 2, and it would apply to the four  
17 counties for Section 5.

18 COMMISSIONER FILKINS WEBBER: Any other  
19 thoughts on this issue? Commissioner Ontai.

20 COMMISSIONER ONTAI: And the opposite would be  
21 a different standard for the non-Section 2 and  
22 Section 5 districts?

23 COMMISSIONER DAI: No. Because Voting Rights  
24 Act applies to the entire State of California and  
25 applies to the entire nation. So, you know, it is just

1 that certain districts may be required to be drawn  
2 under Section 2. That's what I'm saying. It's  
3 actually completely consistent.

4 And just to follow up on Commissioner  
5 DiGuilio's point, we could have a consistently applied  
6 policy that says we're willing also to have a higher  
7 population deviation to minimize the number of city,  
8 county, community of interest, and neighborhood splits.  
9 And we can decide what that ceiling is. It may be a  
10 two, a plus or minus two, whatever that is.

11 But the point is that I think one of the  
12 challenges of putting out a first draft that had  
13 relatively few of these splits is that now we're going  
14 to do it a second and a final one that is going to have  
15 a lot of them. And so people who are relatively happy  
16 with the first draft may be really unhappy with the  
17 final. So it is just a thought.

18 COMMISSIONER FILKINS WEBBER: Commissioner  
19 Raya.

20 COMMISSIONER RAYA: From our meeting in L.A.,  
21 I was always in favor of a higher deviation. And now  
22 that we have seen the consequences of having to be so  
23 tight, I would favor a policy for -- I don't want to  
24 say the rest of the state, but apart from Section 2,  
25 Section 5, if it is going to be a policy articulated

1 differently, but still looking at what I understand our  
2 counsel's advice to be, which is to follow all the  
3 criteria in the act. And so if we're not talking  
4 specifically about a Voting Rights Act issue, then  
5 we're moving on down the line. And the preservation of  
6 cities and counties and so on, all these geographic  
7 boundaries, I think is pretty important; and I think  
8 that is something we do need to look at.

9 COMMISSIONER BLANCO: I would agree. I don't  
10 take Mr. Kolkey's advice that it has to be for every  
11 district to mean that you can't have a consistent  
12 overall policy that you can deviate in order to comply  
13 with Section 5 and Section 2. I think that is a  
14 consistent policy that you're applying to all the  
15 districts.

16 So I think I was just going to say I think we  
17 have to make a decision here sooner or later. We can  
18 just be talking about this.

19 COMMISSIONER FILKINS WEBBER: Commissioner  
20 Malloy.

21 COMMISSIONER GALAMBOS MALLOY: I'm not sure  
22 what direction you're hoping to take the conversation.  
23 If you want to actually have a motion and some sort of  
24 action, I just wanted to express that I'm also one of  
25 the people who was very concerned about deviation in

1 the initial stages of the conversation and felt like,  
2 based on my own understanding of the law and the  
3 feedback we were getting from the public at that time,  
4 that we wanted to have a very tight standard of  
5 deviation.

6 I think that it has served its purpose, and  
7 that now both we as a commission and the members of the  
8 public have seen the unintended consequences of what  
9 that tight deviation has meant both for VRA, for city  
10 splits, for county splits, et cetera. So I would  
11 really be interested and supportive of a policy that  
12 would be uniformly applied across the state that would  
13 allow for more flexibility in reaching some of our  
14 other criteria.

15 COMMISSIONER FILKINS WEBBER: Commissioner  
16 Barabba.

17 COMMISSIONER BARABBA: I similarly thought  
18 about California legislative districts here.

19 COMMISSIONER FILKINS WEBBER: Commissioner  
20 Ward.

21 COMMISSIONER WARD: I would be interested in  
22 having this discussion with counsel, you know, here,  
23 and having an engaged discussion with them regarding  
24 this and deferring until then.

25 COMMISSIONER DiGUILIO: I think to follow up



1 on what Mr. Commissioner Ward said, maybe we can put  
2 this on the agenda for our next business meeting. And  
3 I think that we would have to make a decision about  
4 that because that's the last one before we go into our  
5 line drawing, and we will have to have this decision  
6 finalized in order to be able to be effective in the  
7 directions that we give to them. So maybe we could  
8 have an opinion by our legal counsel and our VRA  
9 counsel as well and have it on a discussion point in  
10 our next meeting.

11 Can I propose that?

12 COMMISSIONER FILKINS WEBBER: In the meantime,  
13 though, Q2 is going to get audio of this direction that  
14 we're providing to them. And although I'm not a  
15 fortuneteller, I get the impression that what we might  
16 end up getting from our VRA counsel is that we need to  
17 strive to follow all of this criteria, which includes  
18 our tight population deviation. And if we can achieve  
19 that, I mean, their instructions to us is to make sure  
20 there is no retrogression. So I'm thinking what if we  
21 can do both.

22 And so I would really like to see -- by adding  
23 population to Kings, for example, I mean, they still  
24 could stay within the population deviation that they're  
25 at and still be nonretrogressive by taking out other

1 groups. So I think that they might still be able to  
2 achieve that.

3 And what we have seen consistently throughout,  
4 give or take a few districts, they really have been  
5 striving for less than one percent. So if they can  
6 achieve that, we may very well be in a situation where  
7 this entire discussion is great, but maybe they can  
8 achieve it with the technology we have now.

9 Commissioner Dai.

10 COMMISSIONER DAI: Yes. Just one  
11 clarification, they also advised us to try to improve  
12 where there was some retrogression for the smaller  
13 populations, that we should try to improve it as much  
14 as possible. So my only suggestion was that we give Q2  
15 the latitude. We can discuss whether we want to have a  
16 greater latitude than the motion we previously passed,  
17 but to give them latitude to go up to one percent if it  
18 improves those smaller populations.

19 COMMISSIONER FILKINS WEBBER: Commissioner  
20 Yao.

21 COMMISSIONER YAO: I didn't mean to bring this  
22 deviation into the discussion. I just want to clarify  
23 the direction that we're giving to Q2, and I would  
24 support giving them the direction saying, "You can  
25 increase the deviation from what you presented on a

1 draft map up to the one percent limit that we have  
2 previously discussed."

3 I mean, obviously we can change that based on  
4 legal advice down the line. But for the time being, I  
5 just want to offer that up as a variable that they can  
6 work with.

7 COMMISSIONER FILKINS WEBBER: Okay. Do I hear  
8 a motion, then, Commissioner Yao? And if Ms. Sargis  
9 might be ready.

10 COMMISSIONER YAO: I would move that with  
11 regard to the direction we're giving to Q2, they do not  
12 have to stay with that limit they set based on the  
13 first draft release. In fact, they can go up to the  
14 previous defined limit that this commission has set of  
15 one percent population deviation in working the  
16 retrogression issues.

17 COMMISSIONER DiGUILIO: Could I ask for  
18 clarification on that simply because the previous one  
19 was five percent, actually, not one percent that you  
20 mentioned? We strove for zero percent, which is, I  
21 think, why we have these issues.

22 COMMISSIONER YAO: I think the five percent  
23 number is history because we have released the first  
24 draft already. The one percent is the final number  
25 that I believe we set for ourselves. And, therefore,

1 I'm working with that one percent, which is -- which I  
2 think is applicable to what we're doing today.

3 COMMISSIONER DiGUILIO: Should we also ask  
4 them along those lines that if they were to improve the  
5 retrogression, if it is possible to do so, what percent  
6 deviation that that would result in?

7 COMMISSIONER FILKINS WEBBER: Certainly.

8 COMMISSIONER DiGUILIO: Well, I mean, going  
9 back again, instead of saying this is the maximum, you  
10 can go to one percent, what can you do, or instead of  
11 saying --

12 COMMISSIONER FILKINS WEBBER: The instruction  
13 is that they should advise us to the extent which they  
14 cannot meet the benchmark. So they need to advise us  
15 why they cannot do that and to provide it to us in  
16 writing.

17 COMMISSIONER BLANCO: So I would second that  
18 motion that they can go -- just to restate, that in  
19 fixing the retrogression issues, that they can go up to  
20 the total of one percent deviation. And as directed by  
21 counsel, if that creates an obstacle in eliminating the  
22 retrogression, that they explain so in writing.

23 COMMISSIONER FILKINS WEBBER: Commissioner  
24 Malloy.

25 COMMISSIONER GALAMBOS MALLOY: I do agree with

1 what Commissioner DiGuilio said, and I hear a slight  
2 difference in what Commissioner Filkins Webber said and  
3 what Commissioner DiGuilio said. I think it's one  
4 thing for Q2 to come back to us and say, "We couldn't  
5 deal with the retrogression issues under the one  
6 percent standard," and tell us why, versus saying, for  
7 example, "If we had -- at one and a half percent, we  
8 actually would --" and to actually tell us what that  
9 threshold is at which they would hit it. And I think  
10 given the short time that we're under, and even the  
11 advice of our VRA counsel that we heard this morning,  
12 the more that we can have multiple options and multiple  
13 tracks working, I think that it will help us in the  
14 end.

15 For example, if we are to come back next time  
16 that we have a business meeting and even consider this  
17 thought of do we change our policy, do we want to  
18 consider it, it would help if we actually had those  
19 thresholds at which we are able to address  
20 retrogression already in hand to inform any policy  
21 decisions.

22 COMMISSIONER DiGUILIO: I would say what she  
23 said is simply that we're looking at our tradeoffs. If  
24 we were to meet retrogression, what is that tradeoff.  
25 And if they say it is six percent, we would look at

1 that and say, "Not possible, we probably wouldn't do  
2 that." This is just having the option so we can make a  
3 decision on our tradeoffs.

4 COMMISSIONER FILKINS WEBBER: Yes. Any other  
5 discussion? I see none. Then I would like a rollcall  
6 vote. Please read the motion back, and then we'll do  
7 public comment.

8 MS. SARGIS: The motion is in regards to  
9 giving Q2 the direction for line drawing, and Q2 does  
10 not need to stay within the deviation limits set in the  
11 first draft maps, but in drawing the second draft maps  
12 Q2 can go up to a total of one percent deviation.

13 COMMISSIONER GALAMBOS MALLOY: Restate,  
14 please.

15 COMMISSIONER YAO: Let me see if I can restate  
16 the motion in a more concise form. The direction given  
17 to Q2 is in working the retrogression issue, they do  
18 not have to stay with the actual they presented in each  
19 of the district during draft one, that they have a  
20 latitude of the one percent deviation to work with.  
21 And furthermore --

22 COMMISSIONER DAI: May I try a shorter version  
23 of this?

24 COMMISSIONER FILKINS WEBBER: Since there is  
25 no second, Commissioner Dai --

1 COMMISSIONER YAO: I'll let Commissioner Dai  
2 make the motion.

3 COMMISSIONER DAI: That the instruction be  
4 that Q2 has the latitude of up to one percent  
5 population deviation in order to improve our ability to  
6 not retrogress. And the second part of that would be  
7 that they advise us of any threshold beyond that  
8 required to meet the benchmark.

9 COMMISSIONER BARABBA: Second.

10 COMMISSIONER FILKINS WEBBER: Any discussion?

11 I just have one question, because maybe I'm  
12 not getting this. The first motion for the first draft  
13 maps, Commissioner Dai, Commissioner DiGuilio, I think  
14 you were reading from that, potentially. What was the  
15 motion for that first draft maps previously?

16 COMMISSIONER DiGUILIO: And by the way,  
17 Ms. Sargis had put this on shared-on Google docs. So  
18 it might be there as well. This is on May 27 in  
19 Northridge. It says "In the case of drawing the first  
20 draft maps and for drawing the state districts, the  
21 commission shall direct Q2 to strive for districts with  
22 a population deviation of zero percent. However, when  
23 that is not possible due to the constitutional criteria  
24 contained in Propositions 11 and 20, the deviations  
25 shall not be more than a total of five percent.

1 COMMISSIONER FILKINS WEBBER: Thank you.

2 Any further discussion on the motion?

3 Ms. Sargis, can you read it back?

4 MS. SARGIS: Was there a second to the motion?

5 COMMISSIONER FILKINS WEBBER: Yes.

6 Commissioner Barabba.

7 MS. SARGIS: May I ask what happened to the  
8 first motion that had a second?

9 COMMISSIONER YAO: It was withdrawn.

10 MS. SARGIS: The motion is that Q2 has the  
11 latitude to go up to not more than a one percent  
12 population deviation to improve the ability to not  
13 retrogress, and that further Q2 shall advise the  
14 commission of any threshold beyond that required to  
15 meet the benchmark.

16 COMMISSIONER FILKINS WEBBER: Any public  
17 comment on the motion?

18 DEBRA HOWARD: Hi there. Debra Howard with  
19 the -- who am I with? Let's just say the California  
20 Institute. I urge you -- this is a really bad idea.  
21 You have a hierarchy of constitutional priorities.  
22 Population deviation is above Voting Rights Act, and  
23 Voting Rights Act is above keeping counties, cities,  
24 and communities of interest together.

25 You have a really functional one percent



1 deviation that you're operating under right now, and I  
2 don't see that making this change actually helps you  
3 move farther in the decisions -- I don't think it makes  
4 it easier for you in making the decisions going forward  
5 that you have to make in the next month. So I urge a  
6 no vote on this.

7 COMMISSIONER FILKINS WEBBER: Any other public  
8 comment? I see none.

9 Rollcall vote, Commissioner Sargis -- not  
10 Commissioner Sargis. Ms. Sargis.

11 MS. SARGIS: Commissioner Aguirre?

12 COMMISSIONER AGUIRRE: Yes.

13 MS. SARGIS: Commissioner Ancheta?

14 COMMISSIONER ANCHETA: No.

15 MS. SARGIS: Barabba?

16 COMMISSIONER BARABBA: Yes.

17 MS. SARGIS: Blanco?

18 COMMISSIONER BLANCO: Yes.

19 MS. SARGIS: Dai?

20 COMMISSIONER DAI: Yes.

21 MS. SARGIS: DiGuilio?

22 COMMISSIONER DiGUILIO: Yes.

23 MS. SARGIS: Filkins Webber?

24 COMMISSIONER FILKINS WEBBER: No.

25 MS. SARGIS: Forbes?

1 COMMISSIONER FORBES: No.

2 MS. SARGIS: Galambos Malloy?

3 COMMISSIONER GALAMBOS MALLOY: Yes.

4 MS. SARGIS: Ontai?

5 COMMISSIONER ONTAI: Yes.

6 MS. SARGIS: Parvenu?

7 COMMISSIONER PARVENU: Yes.

8 MS. SARGIS: Raya?

9 COMMISSIONER RAYA: Yes.

10 MS. SARGIS: Ward?

11 COMMISSIONER WARD: No.

12 MS. SARGIS: Yao?

13 COMMISSIONER YAO: Yes.

14 MS. SARGIS: Ten to four, the motion passes.

15 COMMISSIONER FILKINS WEBBER: Thank you.

16 Seeing the -- before we move on with any other  
17 discussions, Commissioner Blanco, we could take lunch  
18 now and then bring this back up to finish up all of  
19 these districts and get into the district on Merced.

20 Do I see any objection to that? We'll go  
21 ahead and adjourn this meeting, and I would like to  
22 resume at 1:15.

23 (Lunch recess taken at 12:30 p.m.)

24 \* \* \*

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1 THURSDAY, JUNE 16, 2011, CULVER CITY, CALIFORNIA.

2 AFTERNOON SESSION

3 1:25 P.M.

4 \* \* \*

5  
6 COMMISSIONER FILKINS WEBBER: Again, I  
7 apologize for the delay, coming into new cities and not  
8 being completely aware of local accommodations. But we  
9 made it back, and we're only ten minutes late. So I  
10 appreciate the commission's responsibility in that  
11 regard, too.

12 So continuing on with the agenda, we left off  
13 with our discussion of the Section 5 districts. And we  
14 were at Merced. I don't believe we had made any  
15 specific instructions because we got into the  
16 population deviation discussion.

17 So at this point, we're at the Merced Assembly  
18 district for Section 5, which comes down to the Latino  
19 VAP is fine. It is over. The Black VAP is under. The  
20 benchmark is 6.21. The proposed district we have for  
21 the Assembly in Merced is 3.24 percent. The Asian VAP,  
22 which is what had come up before, the benchmark was  
23 11.49 percent, and the proposed is 6.85.

24 So the commission is familiar with the issues  
25 that have been outlined by our VRA counsel. And so the

1 option at this point is to either consider asking Q2 to  
2 raise the benchmark for the Black VAP and the Asian  
3 VAP, or the other proposal is to possibly consider  
4 waiting on further direction in this regard and quite  
5 possibly maybe until next week when we get to Stockton  
6 in order to determine if we can get any additional  
7 outreach from the API community in South Stockton to  
8 make a determination of whether the other -- the second  
9 iteration that we had seen -- or it might have been in  
10 the first one -- with the Stockton Finger maybe -- I  
11 guess what they're talking about is whether the input  
12 that we get from Stockton and whether those interests  
13 from the South Stockton area, would the finger be  
14 closely aligned with the Merced Asian community.

15 So Commissioner DiGuilio and then Commissioner  
16 Barabba.

17 COMMISSIONER DIGUILIO: I just have a  
18 question. In terms of who -- I understand the impact  
19 for the Stockton API community. But do we also have to  
20 get -- because really the API community in Merced is  
21 what we're concerned about, right? So I didn't know if  
22 that would have been part of the consideration as well,  
23 that we should be doing some outreach there. That's  
24 ultimately really who is being affected.

25 COMMISSIONER FILKINS WEBBER: Commissioner

1 Barabba.

2 COMMISSIONER BARABBA: I thought that the  
3 comments made by Commissioner Dai regarding how we got  
4 to the Stockton Finger in the first place would lead me  
5 to go and ask if they can fix the current district  
6 rather than considering the Stockton Finger as an  
7 alternative.

8 COMMISSIONER FILKINS WEBBER: Any other  
9 comments? I thought we had asked them to take a look  
10 at that without the Stockton Finger. Does anybody  
11 recall that they came back to us with the iteration  
12 that we ended up deciding on?

13 Commissioner Dai.

14 COMMISSIONER DAI: Yeah. They went through a  
15 couple of iterations. Remember, they put Turlock in,  
16 and they made it whole. They went back and forth about  
17 splitting -- what was the other city that was --  
18 Modesto, I think. So they did try a bunch of things.  
19 I think based on the advice of counsel, that this  
20 should be documented.

21 And then it sounds like, based on my question  
22 to Mr. Brown today, that, you know, the fact that the  
23 law has changed since 2000 and incumbency protection is  
24 no longer something that's valid according to the  
25 California constitution, you know, that wouldn't be

1 part of our justification as why we didn't put it back,  
2 because we have a more compact district. And we're  
3 able to adhere to the other neutral criteria more  
4 closely.

5 COMMISSIONER FILKINS WEBBER: Any other  
6 comments?

7 Then what it sounds like the direction should  
8 be to Q2 is that at this point the commission is likely  
9 satisfied with the district as it is presently drawn,  
10 but we will require written justification and  
11 potentially with attachments of the iterations that we  
12 pass on that they actually consider drawing. Because  
13 if I'm not mistaken, I think that they might -- I don't  
14 know that they were able to achieve anything closer,  
15 even with those iterations, the multiple ones that they  
16 did.

17 So we would ask that Q2 provide us written  
18 documentation with copies of the other iterations  
19 considered by the commission to justify the proposed  
20 Assembly district for Merced County at this time.

21 Does everybody concur? Any objections to that  
22 instruction? Great.

23 Moving on to the Merced Senate, it appears  
24 that there does not appear to be any nonretrogressive  
25 issues. But to the extent which we had considered

1 making any changes in the future to the AD, the  
2 Assembly district, so nothing further needs to be  
3 provided in the way of instructions to the Q2 on the  
4 Merced Senate district, unless any other commission  
5 member has any other comment on the Senate district for  
6 Merced. Seeing none.

7 And the same, if I'm not mistaken, the  
8 congressional district at this time, the Latino is  
9 fine. The Black VAP has actually increased from the  
10 benchmark of 5.92 percent to 6.19 percent, and the  
11 Asian VAP is where we have one percent decrease from  
12 9.54 percent to 8.64 percent.

13 So in looking at this particular district,  
14 again, based on the advice of counsel, we have two  
15 options. Either request that they work on it to avoid  
16 retrogression of the Asian VAP, or to provide us a  
17 specific explanation in writing regarding the basis for  
18 their support through the direction that we provided as  
19 to this congressional district.

20 Any thoughts? As we have done previously, the  
21 general idea would be to see if they could avoid  
22 retrogression, and I would propose that we ask that  
23 they consider that. I suspect if they work on the  
24 congressional district, it may not impact the success  
25 that they had achieved at the Assembly or the Senate

1 district. So that would be my recommendation as a  
2 general instruction. And to the extent which they  
3 cannot avoid the retrogression on the Asian VAP, that  
4 they provide us written instruction in that regard -- a  
5 written explanation, excuse me.

6 Any objection to that instruction to them?

7 Seeing none, we'll move on to the next  
8 country, which is Monterey. Monterey Assembly district  
9 appears to be nonretrogressive. I'm sorry, I'm trying  
10 to combine notes together. At this point, based on the  
11 information that we have received from counsel, it  
12 appears that we need to obtain the actual VAP data for  
13 Latino, Black, and Asian. And, I apologize, I did not  
14 know that we were missing that data from Q2.

15 COMMISSIONER DAI: We're not. All the  
16 handouts have VAP data and CVAP for each district.

17 COMMISSIONER FILKINS WEBBER: What handout are  
18 you referring to? Because the one that I have -- do  
19 you have a reference page?

20 COMMISSIONER DAI: We're doing Monterey right  
21 now, right?

22 COMMISSIONER FILKINS WEBBER: Yes, Monterey.

23 COMMISSIONER DAI: So there is a different  
24 handout for each of the districts. So if we're doing  
25 Assembly -- and I believe that one is called "Mont," is



1 my guess. Well, there are two Monterey districts. So  
2 we just need to make sure we're talking about the right  
3 one. But we can probably tell from the numbers. So  
4 what you want to look at is the VAP page, which is  
5 Page 4.

6 COMMISSIONER FILKINS WEBBER: Why don't you  
7 state it? Because I have the benchmark for Monterey  
8 County at least as to what is being outlined as the  
9 27th AD, but I don't know if we have it broken down.

10 COMMISSIONER DAI: Let me make sure this is  
11 the right --

12 COMMISSIONER BLANCO: It is Page 4. It's  
13 60.55 percent.

14 COMMISSIONER DAI: I think the heading is  
15 wrong on there. But according to the previous page, it  
16 should be -- 60.55 percent, is that what you have?

17 COMMISSIONER BLANCO: Yes.

18 COMMISSIONER DAI: I'm sorry, that's total  
19 voting age population. I think you need to go to the  
20 next table. The headers are unfortunately not  
21 consistent. They all say "Table 1." I think if we  
22 follow the logic here -- the problem is -- let me  
23 look -- I'm going to cross-reference this with the  
24 electronic file, which doesn't have a page break.

25 COMMISSIONER DiGUILIO: I think what's

1 happened is with the page break, you start these here;  
2 but then all of the back pages you don't know which  
3 districts they're referencing because there is no menu  
4 on the left. But I think we have to look at it  
5 electronically to see what those numbers are.

6 COMMISSIONER DAI: In each case, it starts  
7 with population deviation, total voting age population,  
8 and then citizen voting age population. So I'm going  
9 to cross-reference the -- it should be Table 3, which  
10 is the one that we want, which is the VAP. So looking  
11 at Mont, if someone can just verify that. I'm pretty  
12 sure Mont is the one that we want. Yes. It's  
13 60.55 percent.

14 COMMISSIONER FILKINS WEBBER: Do you have a  
15 Black VAP there, please?

16 COMMISSIONER DAI: The Black one is 2.3.

17 COMMISSIONER FILKINS WEBBER: And Asian VAP?

18 COMMISSIONER DAI: .62. No. Sorry, that's  
19 American Indian.

20 COMMISSIONER FILKINS WEBBER: Make sure,  
21 because the benchmark is 10.91. We may have a real  
22 problem.

23 COMMISSIONER DAI: So this is interesting. If  
24 you look at the table headings, they have separated  
25 Asian VAP from Hawaiian or Pacific Islander VAP. So I

1 think that answers the question that Mr. Brown had  
2 earlier.

3 COMMISSIONER FILKINS WEBBER: Can you give me  
4 a total Asian VAP for the proposed district?

5 COMMISSIONER BLANCO: 12.91 Asian and 2.3  
6 Black.

7 COMMISSIONER FILKINS WEBBER: Are you reading  
8 it the same way, Commissioner Dai?

9 COMMISSIONER DAI: I'm trying to read this on  
10 my small notebook screen, but I think so. Let me take  
11 a look. Yeah. I have 12.91. And then I guess you  
12 would add the .28 if you wanted to make it API. The  
13 fact that they're separated may, in fact, validate what  
14 Commissioner Ancheta said, which is Pacific Islanders  
15 are not generally included.

16 COMMISSIONER FILKINS WEBBER: So the 12.91  
17 that Commissioner Blanco had stated, is that probably  
18 both of those categories that you're looking at?

19 COMMISSIONER DAI: It is just Asian VAP.

20 COMMISSIONER FILKINS WEBBER: That's just  
21 Asian without Pacific Islander?

22 COMMISSIONER DAI: Because there is a separate  
23 column here for Pacific Islander.

24 COMMISSIONER FILKINS WEBBER: What's the  
25 identity of the second Assembly district as categorized

1 by Q2?

2 COMMISSIONER DAI: That's a good question. I  
3 think we would have to go back to our original  
4 reference. Let's see if we can find them.

5 If anybody has the abbreviation at hand.

6 COMMISSIONER BLANCO: It is Santa Clara.

7 COMMISSIONER DAI: Yes, S. Clara, West Mont.

8 COMMISSIONER BLANCO: Right.

9 COMMISSIONER FILKINS WEBBER: Commissioner  
10 Dai, if you have those numbers in the proposed  
11 district, if you find them, let me know.

12 COMMISSIONER DAI: Commissioner blanco, do you  
13 have a guess?

14 COMMISSIONER BLANCO: I'm not finding the name  
15 on this.

16 COMMISSIONER DAI: I'm guessing it's SSMMT.

17 COMMISSIONER BLANCO: SSMMT?

18 COMMISSIONER DAI: That's what I'm guessing.  
19 So for that one, I have 17.78 percent.

20 COMMISSIONER FILKINS WEBBER: Latino VAP?

21 COMMISSIONER DAI: Yes. Is that right?

22 COMMISSIONER BLANCO: Yes, that's what I'm  
23 finding.

24 COMMISSIONER DAI: If that's the case, then if  
25 anyone else finds it first, go for it.

1 COMMISSIONER BLANCO: Counting down the  
2 columns --

3 COMMISSIONER DAI: The problem is the page  
4 break is 3.09 for Black VAP, 26.57 for Asian VAP.

5 COMMISSIONER BLANCO: For Asian?

6 COMMISSIONER FILKINS WEBBER: That's awfully  
7 high compared to the benchmark.

8 COMMISSIONER BLANCO: What did you have for --

9 COMMISSIONER DAI: 3.09 for Black VAP, 26.57  
10 for Asian VAP.

11 COMMISSIONER BLANCO: Yes.

12 COMMISSIONER FILKINS WEBBER: Do they separate  
13 out the Pacific Islanders?

14 COMMISSIONER DAI: Yes.

15 COMMISSIONER FILKINS WEBBER: So are the  
16 Pacific Islanders included in the 26?

17 COMMISSIONER DAI: No, it's not. You have to  
18 remember that this has part of Santa Clara in it now.  
19 So it is not surprising it went up.

20 COMMISSIONER FILKINS WEBBER: Okay. I'll need  
21 the same data, Commissioner Dai, if you don't mind, for  
22 the -- we have it for one of the Senate districts for  
23 Monterey, but not the other. And they're  
24 differentiating one between the 12th and one from the  
25 15th. It seems like the Latino VAP for the Senate

1 district is up around 50 -- the proposed district we  
2 have is 57.43. So if -- while I go through the  
3 Assembly districts, if you can look up the data for the  
4 second Senate district in Monterey, that will help us  
5 as we move along.

6 COMMISSIONER DAI: The second being the Santa  
7 Clara or the Mont one?

8 COMMISSIONER FILKINS WEBBER: It is hard to  
9 tell. Look at both of them. One of them we have  
10 information on, which is the Senate district for Latino  
11 VAP is 57.43 in our district. So I don't -- I think  
12 that might be the Santa Clara one.

13 COMMISSIONER BARABBA: The other one is called  
14 Central Coast, I believe.

15 COMMISSIONER FILKINS WEBBER: What I was going  
16 to do is just identify that it does not appear that we  
17 have any retrogression problems for the Assembly  
18 districts. And let me just run through the numbers so  
19 that everyone can follow along what we just did,  
20 because we're trying to grasp data from all different  
21 sources.

22 Monterey County -- what were we calling that  
23 district? That's the Santa Clara district, SSM- --

24 COMMISSIONER BLANCO: Hold on.

25 COMMISSIONER FILKINS WEBBER: Probably

1 Santa Clara, Monterey, the LVAP, the benchmark is --

2 COMMISSIONER BLANCO: SSMMT.

3 COMMISSIONER FILKINS WEBBER: SSMMT. So we  
4 may have a problem here. The benchmark is 19.86. The  
5 Latino VAP in the proposed district appears to be  
6 17.78. So we have nearly a two percent difference  
7 between the benchmark and the proposed district if  
8 we're reading these numbers correctly.

9 The Black VAP benchmark was 2.32. It  
10 increased to 3.09. The Asian VAP I suspect, based on  
11 our changes, the benchmark was 7.76 and went up to  
12 26.57. So it appears we have retrogressed on  
13 approximately two percent on Latino at this point, and  
14 the other two are increased for that Assembly district.

15 COMMISSIONER BLANCO: Can you just repeat for  
16 us which of the two Monterey districts? Is it Assembly  
17 or Senate that we're on now?

18 COMMISSIONER FILKINS WEBBER: I'm sorry, it's  
19 the Assembly that we're on right now, because I'm  
20 asking you to look up the numbers.

21 Commission DiGuilio.

22 COMMISSIONER DiGUILIO: I'm wondering -- we  
23 shouldn't have to be going through all this like this.  
24 In my mind, I feel like we should have had something  
25 that was like this is what exists and this -- we

1 shouldn't be searching. That even if we don't happen  
2 to catch an issue of retrogression, can we give  
3 direction to Q2 to say if there is any retrogression in  
4 these districts, that they basically do what we have  
5 been asking, is to provide a written justification and  
6 to say if there is any other options.

7 I want to make sure that -- we may be reading  
8 a number right or wrong. But I think if we generally  
9 give direction on this, you need to provide any area of  
10 retrogression plus a table that clearly shows us what  
11 the benchmark and retrogression -- benchmarks.

12 COMMISSIONER DAI: I think Gibson Dunn already  
13 did that for us, and they sent it to us. The problem  
14 is they're using numbers, and we don't have numbers for  
15 the districts. So we're not sure what they're  
16 referring to. So that's the challenge.

17 But I do remember there was a problem with one  
18 of the Monterey districts, and I think we're going to  
19 have to fix it. I mean, with the Latino retrogression,  
20 I think we need to go -- this is where he said there  
21 was -- there was an Option 1 that didn't retrogress,  
22 and we chose Option 2. I think we're going to have to  
23 go to Option 1.

24 And as I recall, the difference between  
25 Option 1 and Option 2 was that Option 1 grabbed Gilroy.



1 And the reason the commission preferred Option 2 is  
2 that we actually put Gilroy, San Martin, and Morgan  
3 Hill together based on COI testimony in another  
4 district. But the problem is this forced us to grab  
5 Alum Rock from San Jose, which is a lot further away  
6 than Gilroy. So I think we're going to have a hard  
7 time justifying that one.

8 COMMISSIONER FILKINS WEBBER: Commissioner  
9 Barabba.

10 COMMISSIONER BARABBA: I'm not sure of  
11 Option 1, because I think that went way south, as I  
12 recall. That would have a ripple effect on what we did  
13 in Ventura. So I can't find the map of Option 1. But  
14 before we went that direction, I think we have to take  
15 a healthy look at that. And I think it also split  
16 Monterey Bay, if I recall. There may be two Option 1s  
17 out there, but I'm not sure.

18 COMMISSIONER FILKINS WEBBER: What I would  
19 suggest -- any other comments on this? This is what I  
20 would suggest -- go ahead.

21 COMMISSIONER BLANCO: I'm reading Gibson  
22 Dunn's chart differently. I'm reading it to say that  
23 the drop is Asian in their chart they gave us. For  
24 Monterey, it says two percent in one of them and four  
25 percent in another one, not Latino. They're all Asian

1 drops.

2 COMMISSIONER FILKINS WEBBER: Commissioner  
3 Barabba.

4 COMMISSIONER BARABBA: I think we should take  
5 Commissioner DiGuilio's -- we're spending time with  
6 numbers that we don't understand. I think if we just  
7 put the general direction that when we find  
8 retrogression, we would like you to fix it; and if you  
9 can't fix it, tell us why.

10 COMMISSIONER FILKINS WEBBER: That certainly  
11 would speed things up. The only point of taking this  
12 time is that so we can prioritize and prioritize the  
13 work and focus on the districts that they need to pay  
14 attention to.

15 So, obviously, Monterey needs to be paid  
16 attention to. And we can probably provide them  
17 specific direction because we don't have all the  
18 numbers. Because even when I'm looking at the CVAP,  
19 which is apparently what Gibson Dunn had before them,  
20 based on the chart I'm looking at, I don't see where  
21 that four percent is at. So it is apparent that  
22 Gibson Dunn may not have had up-to-date information.

23 So just on this first Assembly district, which  
24 I believe has been identified right now as just the  
25 27th, we would provide a general instruction to Q2 to

1 fix any retrogression based on the numbers that they  
2 have provided to us to date.

3 What I would also like, though -- Commissioner  
4 COMMISSIONER DiGUILIO: Did you have a comment?

5 COMMISSIONER DiGUILIO: I was going to say I  
6 think -- finish up.

7 COMMISSIONER FILKINS WEBBER: We also need to  
8 see -- I believe they need to come back to us with  
9 additional information on Monterey County. They need  
10 to show us probably what Option 1 was, provide us  
11 written explanation regarding the decisions that the  
12 commission made to select Option 2, because that's what  
13 our counsel has asked us to take a look at, so that we  
14 can build an appropriate record based on the options  
15 that we are deciding on.

16 So that's what my general instruction would be  
17 to them if this is the Assembly district that had two  
18 options. Because we do need to look at it again and  
19 make sure our record is correct. And we may need to  
20 make a definitive decision as to which option we will  
21 follow based on the advice of counsel to date.

22 Would anyone else like to add to that?  
23 Commissioner Dai.

24 COMMISSIONER DAI: I would just clarify that.  
25 I think where it's a change we absolutely have to make

1 is where there is a drop in Latino VAP, because that  
2 was the reason all of these districts were put into  
3 Section 5 in the first place.

4 COMMISSIONER FILKINS WEBBER: Correct. And  
5 that's what I have seen based on the numbers you gave  
6 me. So if those numbers are correct, then we -- there  
7 appears to be a two percent decline -- a retrogression  
8 of two percent on Latino, if we're reading the numbers  
9 accurately. So that's why we took the time to take a  
10 look at this so that we could better instruct them  
11 regarding the information that we will need from them.  
12 So that's what I would ask as to the first Assembly  
13 district in Monterey.

14 The second Assembly district -- and this is  
15 why I wanted to prioritize it. I appreciate giving  
16 them a general instruction not to retrogress, but it  
17 appears the second Assembly district only has just a --  
18 less than a half a percent difference on Latino VAP.  
19 The benchmark was 60.93, and the proposed is 60.55. So  
20 we can give them a general instruction that if they  
21 want to bump it up, it is probably not that troubling.

22 There does not appear to be any retrogression  
23 at the Black VAP or the Asian VAP for that second  
24 Assembly district. So we would just ask that they meet  
25 the benchmark, which appears to be less than a half

1 percent on the second Assembly. If they cannot do  
2 that, then they need to provide us written instruction  
3 regarding the explanation for why they cannot reach the  
4 benchmark.

5           There are two Senate districts. And so I  
6 think -- it does not appear on the one that is being  
7 identified as the 12th Senate district that there is  
8 any retrogression. But we need to verify the numbers.  
9 So I think the general instruction to them would be to  
10 the extent that there is any retrogression on the --  
11 what they have identified as maybe the 12th Senate  
12 district, even though we don't know what the name is,  
13 but if there is, that they let us know where the  
14 retrogression is and provide -- and then if there isn't  
15 any retrogression, then it will stand on its own. If  
16 there is any retrogression, then they need to add  
17 additional population to avoid the retrogression or  
18 otherwise provide us with an explanation regarding why  
19 they cannot meet the benchmark.

20           The second Senate district in Monterey County  
21 is not -- is where we're lacking data. So, again, I  
22 think Commissioner DiGuilio is right. We don't have  
23 time at this point to try and find the numbers. So --  
24 and this would be the district that appears to have a  
25 benchmark of 26.22 percent Latino VAP, 1.99 percent

1 Black VAP, and 9.51 Asian VAP at the benchmark. And  
2 I'm reading that out for Q2 so that they know  
3 specifically what Senate district we're referring to.

4 We have no data on the proposed district at  
5 this time. So we would ask that, again, the general  
6 instruction is that there will be no retrogression. To  
7 the extent which they cannot reach the benchmark, that  
8 they provide a written explanation regarding why they  
9 cannot do so.

10 Does anyone have any further comments,  
11 suggestions for instructions to Q2 on Monterey County  
12 at the Assembly and Senate district level? I'm seeing  
13 none.

14 Actually, the congressional district just real  
15 quick, again, it appears that we do not have sufficient  
16 data. But here is where it also appears there may have  
17 been multiple options for the congressional district in  
18 Monterey. And this may have been the one in particular  
19 that Mr. Brown was referring to.

20 And it appears at this time we do not have  
21 available data regarding the actual VAP. And,  
22 obviously, it might be in all these charts that we're  
23 trying to discern that from. But we at this time don't  
24 have the time to go through it. So I would think that  
25 this is the same instruction that we would give to Q2,

1 is that they need to come back to the commission with  
2 both options. In other words, let's take a look at  
3 Option 1, provide the VAP data for Latino, Black, and  
4 Asian for Option 1 so we can take a look at it. And  
5 let's make sure we get the appropriate data for all  
6 three of those ethnicities for the present district  
7 that we have in our draft map.

8 Commissioner Blanco.

9 COMMISSIONER BLANCO: Yes. I mean, I think  
10 that's right. I just want to quote from Mr. Brown's  
11 instructions on this particular -- he said for the  
12 Monterey congressional, Option 1 has no retrogression.  
13 But Option 2 had a slight for each group. He said that  
14 their legal advice to us was to choose Option 1 if they  
15 couldn't describe why they decided to retrogress.

16 COMMISSIONER FILKINS WEBBER: So we would ask  
17 that Q2 provide us the information that formed the  
18 basis of our decision to instruct them to draw Option 2  
19 rather than accepting Option 1. And it is within --  
20 well, that would be the general instruction.

21 Any other suggestions or objection to that  
22 instruction to Q2 for Monterey congressional district?  
23 I see none.

24 And we'll move on to the next county. Yuba,  
25 looking at the Assembly district --

1 COMMISSIONER BLANCO: I see a VAP of 17.75  
2 percent Latino.

3 COMMISSIONER FILKINS WEBBER: Correct. The  
4 benchmark was 11.72. The proposed district is 17.72.  
5 The issues arises with the Black VAP. The Black VAP  
6 benchmark is 2.16, and the proposed district is 1.46.  
7 So this is where we have a slight retrogression on the  
8 Black VAP. Our attorneys are recommending that we take  
9 a look at modifying it to make the Black VAP  
10 nonretrogressive.

11 Asian VAP is 3.37 for the benchmark. The  
12 proposed is 5.50. So based on advice of counsel, I  
13 would recommend that we instruct Q2 to take another  
14 look at the Yuba Assembly district in order to increase  
15 the Black VAP. To the extent which they cannot do so,  
16 to provide us written explanation regarding why they  
17 cannot reach the benchmark for the Black VAP.

18 Any other suggestions or comments for Q2 for  
19 the Yuba County Assembly district? And no objections  
20 to my instruction -- recommended instruction? Thank  
21 you.

22 Move on to the Senate district, the Latino  
23 benchmark is 13.41. The proposed district is at 14.40  
24 with no retrogression. The Black VAP is 1.48. The  
25 benchmark, the proposed is 1.66. So no retrogression.



1 The issue comes up with the Asian VAP at a benchmark of  
2 4.75. The proposed is 4.11.

3 The recommendation from counsel is to modify  
4 the district to take a look at increasing the Asian  
5 numbers to reach the benchmark. It is slightly off.

6 Is there an issue?

7 Okay. So, again, let's just look at this a  
8 little closely. We're going to be working on the  
9 Assembly district for the Black VAP, and it may or may  
10 not have any effect on the Senate. But we're at 4.75,  
11 benchmark 4.11.

12 Do you wish to provide the same instruction  
13 that they reach the benchmark; and to the extent which  
14 they can not do so, to provide written explanation?

15 COMMISSIONER DiGUILIO: I think we should say  
16 that they try. I think with the exception of Alpha  
17 House, where I think -- from our understanding, our  
18 direction for most of those locations is basically fix  
19 it. So we don't really have a choice. But I think  
20 when it's -- when it is AVAP or BVAP, they should try.  
21 And then if there is not, they provide justification  
22 why they couldn't reach it. And we have to make a  
23 decision. In the case of other options, maybe we have  
24 to revisit those. But, yes, to try to fix the non-LVAP  
25 population, but to definitely fix the LVAP.

1 COMMISSIONER FILKINS WEBBER: The LVAP doesn't  
2 appear to have a problem right now. Then that will be  
3 the instruction to increase the Asian VAP, or otherwise  
4 provide us an explanation regarding why they are unable  
5 to reach the benchmark for the Senate district in Yuba  
6 County.

7 The Yuba County congressional district, based  
8 on the information that I have here, does not appear to  
9 be retrogressive at all. It appears that Gibson Dunn  
10 may not have been provided updated information. But  
11 based on the numbers I'm looking at, it appears the  
12 benchmark is 14.48 for Latino VAP. The proposed  
13 district is 23.87. So it is a substantial increase.  
14 The Black VAP benchmark, 1.41. The proposed district  
15 is 1.91. So we're above the benchmark.

16 Asian VAP is 4.57. The proposed district is  
17 5.62. So it does not appear to be retrogressive. No  
18 additional instructions need to be provided to Q2,  
19 except to the extent which any work that they do on  
20 Assembly and Senate, please confirm that there is no  
21 retrogression for the congressional district.

22 Anything further for instructions to Q2 on  
23 Yuba County? I'm seeing none. I believe that's it on  
24 Section 5 instructions to Q2.

25 Commissioner Ancheta.

1 COMMISSIONER ANCHETA: Yes. I wanted to  
2 propose an additional set of instructions to Q2 with  
3 regard to all Section 5 districts. It is customary to  
4 DOJ -- in Section 5 submissions, as well as consistent  
5 with DOJ guidelines, that we do have to provide some  
6 additional noncensus data, in particular voter  
7 registration figures for both 2001 -- well, for the  
8 previous districts and the current districts.

9 So I would like Q2 to be directed to access  
10 that data through the statewide database and present  
11 those in the second draft, whatever permutations that  
12 occur in the second drafts, because we do need to look  
13 at that data in the census data.

14 COMMISSIONER FILKINS WEBBER: Any questions,  
15 comments, concerns, objections to that instruction?  
16 Then Q2 will be instructed to proceed as Commissioner  
17 Ancheta is requesting.

18 Any other general instructions to Q2?

19 COMMISSIONER ANCHETA: Just as a note, I  
20 believe also -- and we can confirm this with Gibson  
21 Dunn. Dr. Barreto will be looking at some of the  
22 election history for these districts as well, which is  
23 also part of the package that we put together for the  
24 submission.

25 COMMISSIONER FILKINS WEBBER: You mean to DOJ?

1 COMMISSIONER ANCHETA: We have to file a  
2 formal submission, which includes all this data, as  
3 well as additional narratives regarding issues of  
4 turnout registration, election history as well, which I  
5 think Dr. Barreto's work will include some of that.

6 COMMISSIONER FILKINS WEBBER: The commission  
7 should be assured that the manner in which Dr. Barreto  
8 will be working with Gibson Dunn, that they understand  
9 their legal obligations in that regard.

10 Commissioner DiGuilio.

11 COMMISSIONER DiGUILIO: I just had a question  
12 to follow up on Commission Ancheta's. So directing Q2  
13 about the voter registration data, are we asking them  
14 to do an assessment of it, or is it simply a  
15 passthrough mechanism to get the data to Gibson Dunn  
16 who will then do the analysis of that? I just want to  
17 be clear.

18 COMMISSIONER ANCHETA: It's the same sort of  
19 analysis that we have been doing with the voting age  
20 population data, which is that they need to generate  
21 for each minority group -- we're doing it for every  
22 group -- to look at the registration figures. And this  
23 is based on surname analyses. That you look at the  
24 2001 districts with the relevant population and  
25 registration figures and then compare those to the

1 proposed districts. It is sort of doing the same sort  
2 of parallel analysis that we will be doing with the VAP  
3 numbers.

4 COMMISSIONER DiGUILIO: Okay. So they'll  
5 compile that data, put it together, and give it to  
6 Gibson Dunn for analysis?

7 COMMISSIONER ANCHETA: Yes. I think it should  
8 be presented as a part of the boxes that we get for  
9 each of those districts. They can be in the same  
10 boxes.

11 COMMISSIONER DiGUILIO: Thank you.

12 COMMISSIONER FILKINS WEBBER: Thank you.

13 Therefore, that will conclude our instructions  
14 on this portion of the agenda to Q2.

15 Keeping in mind of what additional work we  
16 need to do in the legal advisory topics on the agenda,  
17 we have a couple of other items. I'm going to run  
18 through them.

19 Well, I only hesitate on a deadline.  
20 Commissioner Blanco asked whether or not we have a  
21 deadline for this information. But I would defer to  
22 our work plan czars.

23 COMMISSIONER ANCHETA: Yes.

24 COMMISSIONER FILKINS WEBBER: Great.

25 The first item still under legal advisory of

1 PRA right now, as I understand it, Ms. Johnston has  
2 sent out e-mails to everyone regarding recent PRA  
3 requests.

4 I just want to confirm, and then move along  
5 with the agenda, that, Ms. Johnston, you're instructing  
6 -- you're asking that the commissioners comply with the  
7 PRA requests and communicate directly with you in that  
8 regard; is that correct?

9 MS. JOHNSTON: That unfortunately is correct.

10 COMMISSIONER FILKINS WEBBER: Moving on, is  
11 there any other instructions that you need to provide  
12 to the commissioners regarding compliance with the PRA  
13 requests?

14 MS. JOHNSTON: Only that there needs to be  
15 direction to Q2 about getting the data prepared to --  
16 for the latest Sterges request.

17 COMMISSIONER FILKINS WEBBER: I would ask, in  
18 conjunction with the next chair, that staff needs to  
19 outline the information from the PRA request that needs  
20 to be obtained from Q2. We are under a legal  
21 obligation -- in fact, why don't you please explain  
22 that on the record.

23 MS. JOHNSTON: There is a legal obligation  
24 that the commission post online as quickly as possible  
25 all the data that it is using to do its line drawing,

1 which means that the database that Q2 has been  
2 compiling needs to be available online. If it's  
3 available online, then we don't have to respond to the  
4 public records request. We can simply refer them to  
5 the online version.

6 COMMISSIONER FILKINS WEBBER: Are you aware of  
7 some of the links on the database that we have been  
8 sent?

9 MS. JOHNSTON: I'm aware, and I cannot access  
10 it from the link.

11 COMMISSIONER FILKINS WEBBER: Okay.  
12 Commissioner DiGuilio.

13 COMMISSIONER DiGUILIO: I think that this --  
14 would this speed the COI database that we have been  
15 talking about?

16 MS. JOHNSTON: Correct.

17 COMMISSIONER DiGUILIO: And I know I have had  
18 some discussions with Ms. McDonald about this because  
19 it's a matter of having access for our commissioners  
20 and other consultants. And I think they are in the  
21 process -- the problem is that once you open up this  
22 database, this is our -- it is a security issue. So  
23 they're trying to create a system where they can -- I  
24 mean, if we had access, I think that we --

25 COMMISSIONER FILKINS WEBBER: Let me just -- I

1 know you're probably going to get into this in the  
2 work plan, but what I need to do now is just instruct  
3 Ms. Johnston that if they can't provide access on the  
4 web within a reasonable time to respond to the PRA  
5 request, then they're going to have to communicate the  
6 information to Ms. Johnston in order for us to comply  
7 with the PRA.

8 COMMISSIONER DiGUILIO: So just to let her  
9 know, to follow up when you talk with them there was  
10 the option to have a static document that's viewable.  
11 So I think that will be the option. And I would just  
12 encourage Ms. Johnston to follow up with them on that,  
13 because I think they're in the process of doing the  
14 technical requirements and to make that available.

15 MS. JOHNSTON: As long as that document were  
16 updated regularly, that would be fine.

17 COMMISSIONER DiGUILIO: I will work with staff  
18 to work those details out.

19 COMMISSIONER FILKINS WEBBER: Ms. Johnston,  
20 you are instructed to work that out with Q2.

21 Mr. Claypool.

22 MR. CLAYPOOL: I just wanted to say for now  
23 Ms. Johnston will be the one that handles this request.  
24 We just had a staff shortage because a couple of the  
25 people that have been working with us -- one had to



1 take a leave, and another one actually, Lisa Halterman,  
2 had a concussion. So she's been out for about a week.  
3 It was not a work-related concussion, but still serious  
4 enough so that she's recovering. So as soon as we have  
5 another person, we will be shifting that over to her.

6 COMMISSIONER FILKINS WEBBER: Okay. Any  
7 further requests of any commission member regarding  
8 PRA?

9 Moving on, the conference call with Gibson  
10 Dunn & Crutcher is essentially what you heard today in  
11 the presentation. He also provided an update on going  
12 through some of the organized group maps, which I  
13 understand he'll be working with Commissioner Ancheta  
14 to do. So we'll move on from there.

15 Item No. 4 -- actually 2-B, which is Gibson  
16 Dunn's advice regarding report preparation for second  
17 draft maps and final maps. He didn't get to that today  
18 on final draft maps, but I understand this will be part  
19 of the discussion with the work plan, this supporting  
20 data preparation and data compilation which we have  
21 been working with. So I'll defer this to the technical  
22 so we can get into the work plan discussion.

23 Ms. Johnston, I sent an e-mail to Mr. Miller  
24 to provide us an update on the status of Mr. Barreto's  
25 execution of the contract. Can you provide us an

1 update in that regard?

2 MS. JOHNSTON: Yes. We got the approval from  
3 general services. We're waiting now to hear back from  
4 the university. And Mr. Barreto, he has requested that  
5 payment be made directly to him. Since the contract is  
6 with the university, we have to get that instruction  
7 from the university. But it is all in line to happen  
8 soon.

9 COMMISSIONER FILKINS WEBBER: I saw that  
10 myself. I wondered about that. So we're working on  
11 that. But in the meantime, he sounds like he's  
12 cooperating with you right now, and he's actually  
13 working with us?

14 MS. JOHNSTON: Yes.

15 COMMISSIONER FILKINS WEBBER: Terrific.  
16 The confirmation of the districts for RPV,  
17 Mr. Brown did provide us a summary on that already.

18 The Item No. 6, all of the other matters  
19 identified under legal matters will be deferred per  
20 Mr. Miller's request. He's working on these issues and  
21 would like to provide presentation to the commission  
22 next Thursday.

23 So now only ten minutes behind. I will turn  
24 it over to Commissioner DiGuilio for technical and  
25 outreach, and obviously with Commissioner Ontai as the

1 lead for outreach as well.

2 COMMISSIONER DiGUILIO: So only ten minutes  
3 over. That's a hard act to follow.

4 What I'm going to do is suggest -- there are  
5 quite a few items on this agenda, particularly as it  
6 relates to the technical. I think what we have decided  
7 to do is to wrap up some of these. Most of these will  
8 be addressed when we discuss the work plan, but there  
9 are a couple to pull out.

10 So the first being an update on the IFB,  
11 process, and I will let Mr. Claypool give us an update  
12 on that.

13 MR. CLAYPOOL: So we're on schedule right now  
14 with the in-line review process IFB. The last day for  
15 questions was yesterday. We only received one set of  
16 questions requesting information regarding the  
17 provisions in it. That came from the Rose Institute.  
18 We have answered those questions as of this morning.  
19 And we're hoping -- we're not hoping. We will have our  
20 group of candidates, whomever applies for this  
21 position, to this commission in Fresno as scheduled.

22 COMMISSIONER FILKINS WEBBER: Can you refresh  
23 my memory? What is that schedule?

24 MR. CLAYPOOL: Fresno is --

25 COMMISSIONER FILKINS WEBBER: You mean in

1 Fresno?

2 MR. CLAYPOOL: In Fresno we will be presenting  
3 the candidates for this position for this commission to  
4 review and make an approval on.

5 COMMISSIONER FILKINS WEBBER: Thank you.

6 COMMISSIONER DiGUILIO: Any other comments or  
7 questions about that?

8 Okay. Let's see. Because I don't want it to  
9 get lost in the shuffle, let me just provide -- because  
10 I don't want it to get pushed to the end. There was an  
11 item here about the discussion of actual CVAP for the  
12 districts. It is No. 2-A 1. And I believe originally  
13 the intention was to have Q2 do a presentation, but  
14 they won't be here. So I was going to see if  
15 Commissioner Blanco would like to talk about this more.  
16 I don't know if we'll have a chance to do much with it.  
17 Basically, what would you like to do with it?

18 COMMISSIONER BLANCO: Well, once -- this again  
19 flows from Mr. Brown's recommendation to us and the  
20 running list that I think Commissioner Ancheta and --  
21 who is -- there were two people. You were keeping a  
22 running list. So this is sort of a work deadline  
23 issue. This is like where are we? Have we sent those  
24 to get the approximation -- you know, I think Mr. Brown  
25 calls it the actual -- another -- another estimate, is

1     what he calls it, of the CVAP.

2             And, you know, so I just wanted to -- this may  
3     be a work plan issue, but I want to know when we're  
4     going to have that, since we're trying to streamline  
5     everything so we can begin drawing at every meeting  
6     that we have potentially. And so we have a whole list.  
7     I don't know that we have got them all in front of us.  
8     And I think we just need to have it finalized. What is  
9     the new CVAP data that we have asked them to give us  
10    the estimate for, right?

11            COMMISSIONER ANCHETA: I mean, I have a list.  
12    I think it conforms with what Mr. Brown has identified,  
13    although I think there may be some at the margins  
14    regarding going down 45 percent. It might need to be  
15    confirmed with his working list. Again, Ms. Filkins  
16    Webber, we haven't confirmed to make sure the lists are  
17    identical. I think we would have to check regarding  
18    sub-50 percent districts and see whether those are on  
19    his list.

20            COMMISSIONER BLANCO: That's why I put this on  
21    here. I want to know where we are and how many we're  
22    looking at and when we'll have that.

23            COMMISSIONER ANCHETA: We can circulate that.  
24    But I think for purposes of -- there are a couple  
25    levels here. One is what is going forward with

1 Dr. Barreto. And I think what Mr. Brown identified  
2 earlier today as areas where he's -- six areas outside  
3 of L.A. County, L.A. County more generally, that those  
4 are the target areas. I have to confirm whether all of  
5 the ones that we identified -- again, the sub-50  
6 percent, we need to make sure they are the same ones.

7 All of the ones outside of L.A. County are  
8 getting looked at. And I think within L.A. County, we  
9 are at this point asking Dr. Barreto basically to look  
10 at L.A. County more generally because it may be a bit  
11 of a moving target. And we'll raise this in the work  
12 plan discussion about how we're working with L.A.,  
13 because there's some issues around how we might want to  
14 perhaps unpack a district or two at this point.

15 But in any case, I think we just need to make  
16 sure our lists are online and we're not missing  
17 anything. But for L.A. County, we're asking him to  
18 look at the county for right now. And as we move  
19 forward in the next few days, particularly looking at  
20 some of those other statewide maps, we may ask him  
21 specifically to look at certain districts that are  
22 going to have the 45 to 50 percent level. Again, there  
23 may be some shifts if we're feeling there may be some  
24 packing issues. So those districts will be new  
25 districts if we do it that way.

1 COMMISSIONER FILKINS WEBBER: Okay.

2 Commissioner Dai.

3 COMMISSIONER DAI: Just as a check, I did a  
4 quick calculation on the spreadsheets we were given.  
5 And at least for Assembly, I came up with 12 districts  
6 that had greater than 45 percent CVAP and for Latinos,  
7 one for blacks, and one for Asian that are over 45  
8 percent CVAP. I can do the same for the others, too.  
9 I haven't run the calculation yet. I did it for  
10 Assembly.

11 COMMISSIONER BLANCO: So I guess the question,  
12 as Mr. Ancheta noted, is are we going 45 and above? Is  
13 that our --

14 COMMISSIONER ANCHETA: Again, we'll have to  
15 make a final decision whether that's where we want to  
16 do it. But I think we're investigating all of those  
17 possibilities. But, again, I think we have to confirm  
18 the list.

19 COMMISSIONER FILKINS WEBBER: I'll have to  
20 just refresh my memory from the time that I was taking  
21 some of these notes. I may have been just focusing on  
22 Section 2, but I will have to go back and look at it.  
23 And then we can compare notes. And I may have been out  
24 of the conference call where this came up in more  
25 detail. I thought it might have been one that I was

1 missing from. So I may be a little out of it. So  
2 don't necessarily look at me. I'm not exactly sure.  
3 We will certainly look into that. We can combine notes  
4 and see if I even have any of the information. So we  
5 can do this later. And then if we need to go back with  
6 Mr. Barreto or Mr. Brown, we can take a look at what --  
7 I don't remember hearing a recommendation from them as  
8 to getting this additional, but maybe they have already  
9 given it in a conference call. I don't recall.

10 COMMISSIONER ANCHETA: And I don't think we  
11 have lost a district. But, again, it is sort of at the  
12 margin level where it is below 50 percent. They may  
13 think 45 is too low. We only look to 46 and above,  
14 that kind of thing.

15 COMMISSIONER FILKINS WEBBER: I'll make a note  
16 to follow up with Commissioner Ancheta and then  
17 probably Mr. Brown on getting this additional  
18 registration information for the VAP and CVAP.

19 Commissioner DiGuilio.

20 COMMISSIONER DiGUILIO: Okay. Now comes the  
21 fun discussion. All right. Work plan.

22 COMMISSIONER ONTAI: Before we get off that  
23 particular topic, do we have -- have we concurred on  
24 the total number of districts we're going to look at?  
25 In other words, Commissioner Ancheta, does your list



1 match Commissioner Dai's list and match what George  
2 talked about this morning of having approximately nine  
3 Assembly districts that he is either confirming over  
4 50 percent in the questionable areas?

5 COMMISSIONER ANCHETA: Again, I think some  
6 think it's 50 percent or above. That's the same list.  
7 These are all the same lists. I think, again, the  
8 question is going below 50 and somewhere above 40, are  
9 those aligning. And I think we just have to confirm  
10 that we're -- again, if the commission doesn't want to  
11 go down to 45, that's another question. But we have  
12 been working sort of under the 45 percent, let's look  
13 into it rule. We'll just need to confirm those.

14 COMMISSIONER YAO: Maybe one action item is to  
15 come up with a list.

16 COMMISSIONER ANCHETA: I think that's fine.  
17 We're going to suggest in the work plan that we may  
18 have to do some extra analysis this week and next week  
19 to kind of confirm those. We have numbers now. These  
20 are the districts. But that may change given -- and  
21 specifically for L.A. County. I think both -- I think  
22 the commission generally -- and we'll talk about this  
23 some more. I think Gibson Dunn want to take a closer  
24 look at L.A. County, and that number may increase  
25 depending on our analysis this week.

1           Can I just propose a five-minute break? I did  
2           want to upload a summary work plan to the Google docs,  
3           and it sort of stalled right now. I can just --

4           COMMISSIONER DiGUILIO: Do you want me to set  
5           the stage with the other document?

6           COMMISSIONER ANCHETA: I'm just having trouble  
7           uploading at this point.

8           COMMISSIONER DiGUILIO: Unless the chair would  
9           like to take a break now.

10          COMMISSIONER FILKINS WEBBER: Why don't we  
11          move on, and we'll take a break in a half an hour.

12          COMMISSIONER DiGUILIO: Well, first for your  
13          reference, I had done the same thing. You have seen an  
14          e-mail that I just sent that has what we're going --  
15          I'm going to set the larger picture stage for what the  
16          approach we took with this work plan, and then Angelo  
17          will kind of show you the level of detail and the  
18          implications of it. If you'd like, I'm going to read  
19          every item. So there's nothing different. But if  
20          you'd like, for your reference, you can go back.

21          So basically after we looked at all the  
22          different tasks, the things that are on Commissioner  
23          Ancheta's larger picture, and we realized how are we  
24          going to frame all these -- I'm sorry, Chair Webber, it  
25          looks like you have a --

1 COMMISSIONER FILKINS WEBBER: I'm sorry, are  
2 you reading off something I should be following from?

3 COMMISSIONER DiGUILIO: It is a Google doc, a  
4 shared Google doc, and it is a work plan assumptions  
5 and timeline. It's just shared access.

6 So the first thing we realized is based on  
7 this very tight timeline we have, that we had to make  
8 some assumptions in terms of how we're going to address  
9 what we need to do. So the first assumption was kind  
10 of we started with a beginning and an end. And the  
11 first assumption was I think there was a general  
12 agreement that we had done a very good job in our first  
13 draft, but that we probably would have liked to have  
14 some more time to go through some of the districts.  
15 That we were kind of -- it was a very compressed time  
16 schedule with really just two days to do the bulk of  
17 the line drawing. So that was kind of the beginning.  
18 We may not have had as much time to do the level of  
19 detailed analysis of our maps that we probably would  
20 have liked.

21 The end is that we have an end date that there  
22 are no changes, not even editing, to our maps after  
23 July 31, although what we're trying to research, too,  
24 is there's some things about the narrative report that  
25 can be finalized.

1           So that is the starting point and then an end  
2 point. What we realize is there are a lot of  
3 assumptions that follow from that in between. The  
4 third one being we'll need more time for line drawing  
5 direction for the second draft map because this is our  
6 last opportunity to get to the big picture. We'll also  
7 need more time in the second draft maps because that is  
8 when we have designated the Senate numbering system,  
9 which will take a while to go through.

10           So the next assumption would be the key to  
11 line drawing in the second draft map -- excuse me, the  
12 second draft and final map is changing our focus, which  
13 has previously been that input is driving the line  
14 drawing process, to line drawing driving the final  
15 outcome, which is to get to the maps at this point.

16           So knowing that we're going to -- so basically  
17 the second draft map is when we're going to do most of  
18 the work. So, therefore, we'll need to set reasonable  
19 expectations for the third round of input hearings,  
20 because what we're going to propose is that there is  
21 going to be a need to push the second draft map date  
22 out in order to get more in touch with our directions,  
23 to get more time with our mappers to give them  
24 directions.

25           And if we push the second draft map out, and

1 we recognize that there are limitations to what we can  
2 do for the final map, being that the final map really  
3 is going to be a very detail -- there is not going to  
4 be the opportunity to do very high level changes to our  
5 final map.

6 With that being said, we don't want to set  
7 unrealistic expectations about what we can do for the  
8 third round hearings. So in discussion with  
9 Commissioner Ontai and Commissioner Ancheta and  
10 Ms. McDonald, there is a recommendation that we do no  
11 more than hearings for the third round. That's a  
12 recommendation that's obviously open for discussion,  
13 kind of a Northern California and a Southern  
14 California. But to really encourage electronic  
15 submission of public comments. And part of that is to  
16 be able to maximize the amount of time also that our  
17 mappers can -- can take the public comment, which we  
18 have said is really important for us to be able to  
19 equally value that, as well as input hearings.

20 So basically the timeline implications of the  
21 above assumptions for the final map is that Q2  
22 recommends that there are two days of what are called  
23 live line drawing, which would mean any changes that we  
24 make would be happening and that would be the final  
25 outcome of our maps. It is not we give them direction,

1 they go back and make the changes, and come back to us.  
2 It is simply two days of fine-tuning our maps. And at  
3 the conclusion of which, the commission will be able to  
4 see basically the final maps.

5 They have also set a timeline that they would  
6 need at least five days after the live line drawing to  
7 clean up the lines, such as equalizing populations,  
8 final report, finalizing data, because again there is  
9 no opportunity after that to make sure your labels are  
10 correct or to make sure you picked up that one extra  
11 person. So they need to make sure they have the time  
12 to do that.

13 So basically those are some of the  
14 assumptions. What we have done is identified four  
15 major milestones that will be working within these  
16 assumptions. That is that we have a second draft map,  
17 a draft narrative report to accompany that map, a final  
18 map, and a final report. And I just -- I threw in at  
19 the very bottom just the dependencies. We're also  
20 taking into consideration that there are things, such  
21 as in the event the RPV analysis cannot be done in a  
22 timely fashion, we have to have contingencies in place  
23 of how to handle the situations.

24 So basically based on those assumptions, you  
25 can see a proposed work plan timeline which would take

1 into consideration our suggestion that we move the  
2 release of the second draft map to incorporate more  
3 time for line drawing.

4 As you recall in our first draft map, I  
5 believe we had two days. There was a break for the  
6 mappers to do the mapping. We came back for one quick  
7 kind of look, but it really wasn't an opportunity to do  
8 many changes. It was more of instruction. So, in  
9 essence, it was two days of an intense direction. So  
10 in this proposal, we have said we would like to have  
11 three days of directions to line drawers.

12 I'm sorry, from the timeline, you can see that  
13 one statement says the last day is June 28, which is  
14 the final Round 2 public input hearing in Sacramento.  
15 We will provide a couple days for all the information,  
16 to hear what we're anticipating to be a significant  
17 amount of public comments to be finalized and  
18 synthesized so they can give us a summary of those  
19 items. And then we will allow for us to have three  
20 days of directions to the line drawers from July 1st  
21 through 3rd. We will provide three days for the  
22 mappers to do that mapping. They will come back on  
23 July 7th and 8th for us to be able to provide  
24 additional line drawing directions, which can actually  
25 be stretched to three days if we want to. And then

1 another three days for the mappers to do that mapping,  
2 with the idea under that current schedule the release  
3 date would be pushed from July 7th to July 12th. And  
4 we have the ability to actually push all the way to  
5 14th, but no date further than that if we have to.

6 Therefore, if we did that and the commission  
7 agreed to -- well, it would have to reduce the number  
8 of third round hearings to begin with. But that number  
9 will have to be finalized and approved by the  
10 commission. But if No. 2 is acceptable, then that will  
11 put us at July 16th and 17th, which is a suggestion  
12 because it's the weekend. We can maximize  
13 participation.

14 And within turnaround, we would be able to  
15 again give Q2 the opportunity to provide -- to get the  
16 summary together, the public comments. We would have  
17 the two live line drawing sessions on July 21st and  
18 22nd, which at the conclusion of that point would  
19 pretty much be our maps. We would be able to see them  
20 because it would be a live line drawing session. And  
21 the final maps -- it would then give five days for Q2  
22 to run the reports and produce the final maps, with our  
23 end date being July 28th for the final maps and votes,  
24 knowing that we actually have until July 31st to -- if,  
25 for some reason, there are any issues, which I'm hoping



1 there won't be, we technically have a little wiggle  
2 room July 31, which is the drop-dead date for the final  
3 map submission.

4 So I know that's a lot, and I think there are  
5 a couple of things in there that we really need to  
6 discuss a little further. And then maybe at that  
7 point, I'll turn it over to Commissioner Ancheta after  
8 that discussion is done because I think some of the  
9 level of detail in terms of the aspects in there, which  
10 include everything from the documentation of all our  
11 decisions that have been done, all the issues related  
12 to any type of VRA issues, what will be taking place,  
13 some of the database issues, all of those we see  
14 fitting into this timeline.

15 But in order for those to be accomplished, we  
16 have to kind of get your overall ideas on what we  
17 proposed here in terms of following this timeline,  
18 because we'll need to obviously make those adjustments.

19 COMMISSIONER FILKINS WEBBER: Commissioner  
20 Malloy.

21 COMMISSIONER GALAMBOS MALLOY: Commissioner  
22 COMMISSIONER DiGUILIO: Thank you for your work on this  
23 effort. One of the things that I feel like I didn't  
24 hear addressed so much in your overall presentation was  
25 if you could talk through a bit the timing of by when

1 the public comment would no longer be able to really  
2 influence our product. Because there is, I think, a  
3 significant back-end investment that has to happen to  
4 be able to process the comment, interpret the comment,  
5 catalog in the database, VRA counsel weigh in. And so  
6 I think as we're considering this, that is one of the  
7 things I'm trying to factor in, is what does this  
8 really mean for the public's opportunity to engage and  
9 influence the process.

10 COMMISSIONER DiGUILIO: And I think that's a  
11 very good point, and I apologize for not mentioning it  
12 sooner. We recognized that we need to set -- very  
13 quickly we need, first of off, to give the public an  
14 idea of what to expect. But this has been an issue in  
15 terms of adjusting this timeline that we've -- in  
16 talking to Ms. McDonald, originally they were saying  
17 five days prior to the summary. At this point, it  
18 looks like it is going to be at least a week  
19 beforehand, partly because the amount -- let me just  
20 say that that's kind of what we're operating, probably  
21 between a five- to seven-day period. But we couldn't  
22 set that deadline until we knew the commission approved  
23 when we would start having the summary being presented  
24 to us based on a different draft map.

25 So this is an area that is going to be -- this

1 is on our list of things to address, because there is  
2 not going to be a lot of turnaround time for the  
3 public, not as much as I think we would like to for  
4 them to comment on what we have done. And this is  
5 partly why we will be trying to encourage electronic  
6 submissions because we know the amount of time to  
7 review and make the necessary arrangements and come to  
8 these input hearings may not be there.

9 But I think we are caught in a position of  
10 knowing that we have -- in an ideal world, we would  
11 like to provide more opportunity for public input. But  
12 in the end, our goal is to get these maps done. And so  
13 we have to be able to have a deadline set so that we  
14 can take into account as much public comment as  
15 possible.

16 So that's a long way of saying it is very much  
17 on our radar, and we will set that deadline and try to  
18 incorporate as much public comment as possible. I  
19 think the hardest thing will be able to really  
20 incorporate -- we have to -- I'm sorry, one more thing.  
21 Setting expectations, particularly for the last round  
22 of public comments, is what people can expect, that  
23 even if they submit public comments, we have to let  
24 them know that this is not -- you can submit wonderful  
25 public comments about large-scale changes, but we just

1 can't incorporate those. This is not the time. So  
2 part of this will be public information about clearly  
3 setting reasonable expectations for the second and  
4 third draft map.

5 COMMISSIONER FILKINS WEBBER: I put myself in  
6 the queue, if you don't mind. I just have a real quick  
7 question, and then we'll go to Commissioner Barabba.

8 In looking at this timeline and thinking about  
9 obviously being chair now and trying to think of all  
10 the work and all the planning we need to do from now  
11 until the end of July, one thing that's occurred to me  
12 and what -- and tell me if this fits into this timeline  
13 that you're thinking about.

14 I feel that we need more days of deliberation  
15 among commission members to make some hardcore choices  
16 and decisions. We moved fairly quickly through the  
17 districts, and I know we're working on some ideas on  
18 data compilation and being able to get, you know, all  
19 of the data from the website, from public input, put it  
20 all together so that commissioners can actually study  
21 it in a workable format, since we've talked about  
22 access issues before.

23 So when I see on here you have summary of  
24 public comments like July 1st, are you anticipating  
25 that that would be a day similar to our wrap-up

1 sessions we've had previously? Do you envision it as a  
2 day in which the commission can actually sit down and  
3 look at some of our districts that we have highlighted  
4 that we can actually, you know, make a decision and  
5 have a deliberation about how we're going to instruct  
6 Q2?

7 Because I think at this point we can -- I just  
8 don't see us doing the same thing that we had done for  
9 the draft maps. I picture it as a situation where we  
10 will be asking Q2 for different iterations, or we as a  
11 commission need to make definitive decisions where we  
12 may have to call for a vote on the manner in which we  
13 are either going to instruct them or the way the lines  
14 are going to be drawn. It's just simply, from my  
15 perspective, not going to be similar to what we did  
16 before.

17 So can you tell me where this type of  
18 deliberation might fit into your timeline and whether  
19 or not you actually thought about it?

20 COMMISSIONER DiGUILIO: I think there are a  
21 couple points there that you made. One is that we do  
22 need -- we're trying to -- Commissioner Ancheta and I  
23 are trying to build in as much opportunity for us to  
24 address these issues before we get to the actual line  
25 drawing. And that's one of the things I think we'll be

1 very busy with this weekend so we can have some  
2 commissioners probably even have some authority to be  
3 able to make some progress on those issues so we can  
4 identify problem areas, make suggestions.

5 I will say that I think this is where we as  
6 commissioners really need to step up. I know that  
7 there's -- Commissioner Blanco has clearly laid out  
8 some of those areas that she has identified that are  
9 areas that she would like to have addressed, as well as  
10 the reasons why they could be problematic. I would  
11 encourage all commissioners to review these and really  
12 spend some time, because the more we can identify these  
13 ahead of time and provide that data to Commissioner  
14 Ancheta and I, the more we can provide a way to have  
15 that be addressed before we get to the line drawing  
16 sessions. So that's the aspect in terms of, I think,  
17 what you are saying about commissioner-identified  
18 areas.

19 I think the other issue is how are we going to  
20 be able -- we as commissioners, how are we going to be  
21 able to review the amount of public comments we'll be  
22 receiving both from input hearings as well as otherwise  
23 submitted. And this was the question that Commissioner  
24 Ancheta posed to everyone, was have you been able to  
25 keep up with our public comments. And no shame in

1 saying if you weren't. I'll be the first to say that  
2 it's been more difficult for me, where prior I was able  
3 to read a lot of public comments. It hasn't been the  
4 same.

5 So we recognize that even in the midst of  
6 being able to try and keep up, there is still a need to  
7 have some type of summary about all this public  
8 comments, whether it's input or otherwise. So we're --  
9 this is something that's on our radar to be able to  
10 work out in detail about how that summary will take  
11 place this week, because we recognize there is a need  
12 to do that.

13 Right now the summary of public comments is on  
14 the calendar as just the day we start the direction of  
15 line drawers. That is an area that I would like to  
16 have at least a day beforehand so we can process it.  
17 But this is an area that we will be working closely  
18 with Q2 on and our VRA attorneys to get summaries of  
19 what's been happening both public comments and  
20 otherwise.

21 I hope that answers your question.

22 COMMISSIONER FILKINS WEBBER: It does.

23 Commissioner Barabba.

24 COMMISSIONER BARABBA: Yes. I would concur  
25 with the direction you have indicated here. I really

1 think the most efficient use of our time and the  
2 public's time, after we have this next set of hearings,  
3 is either put it in writing or send an e-mail or  
4 whatever. I don't think we ourselves have the time to  
5 go out and take all the time it takes to set up a  
6 meeting and then sit through it and then take those  
7 notes. I think we should take advantage of what  
8 society has provided us with the Internet.

9           The other aspect that came up is this issue of  
10 reviewing the input. It seems to me that it might be  
11 an efficient use of our time if there was a format that  
12 was put together by a group of commissioners, but that  
13 we then split up the assignment of reviewing the input  
14 either by region or some other area so that we can  
15 assign commissioners to work together to summarize that  
16 rather than asking each of us to summarize the entire  
17 list, which I think would be impossible to do. So if  
18 we can somehow break that down, it would be helpful.

19           COMMISSIONER DiGUILIO: It wouldn't be the  
20 commissioners that would be writing the review of the  
21 material. There's no way for all of us to do that. I  
22 think the idea is that Q2 -- or we provide some system  
23 for the data that we have been able to collect through  
24 Q2 to be able to be summarized to us. I think if those  
25 commissioners who are from a particular region paid



1 maybe extra close attention to your region, because I  
2 think you would be the most insightful to be able to  
3 not just read it from a detached perspective, but to  
4 have some idea of kind of the implications, then you  
5 would only enhance the conversation. But I don't think  
6 -- we haven't envisioned it as that's a commissioner  
7 responsibility to report out at this point.

8 COMMISSIONER FILKINS WEBBER: They are working  
9 on it, and we're going to get to that discussion  
10 probably throughout the rest of the time we're going to  
11 discuss the work plan. So just maybe around the  
12 timeline.

13 Commissioner Raya and then Commissioner Yao.

14 COMMISSIONER RAYA: My comment is along the  
15 same line. So we're going to get something more about  
16 how we might participate in a focused way in looking at  
17 particular areas?

18 COMMISSIONER DiGUILIO: I think what we'll do  
19 is try to put a suggestion together in terms of these  
20 are the different options. I think what we have  
21 initially said is that we have to have some system that  
22 will provide a summary to us that is not based on  
23 commissioners. But we envision having some  
24 commissioner involvement in addition to that as well,  
25 too.

1                   COMMISSIONER RAYA: Okay. I know this is all  
2 somewhat still -- it is evolving clearly. You know, I  
3 just -- I think I look at the calendar, and I look at  
4 the strings for some of us at trying to keep all the  
5 pieces of our lives together right now, including our  
6 businesses. And I am willing to do whatever it takes.  
7 But the more you can direct me, you know, I'm fine with  
8 that.

9                   Again, I think the suggestion that we look at  
10 the areas that we know, which may or may not be the  
11 areas we actually live in. But anything you put  
12 together, I think the commissioners are willing to take  
13 on a little more specific responsibility rather than  
14 trying to have to deal with the whole.

15                  COMMISSIONER DiGUILIO: I think we recognize  
16 that uptake in public comments and trying to have all  
17 of us stay on top of it, as well as we're in the second  
18 round where we already committed to our input hearings,  
19 our time will continue to be limited.

20                  COMMISSIONER FILKINS WEBBER: And Commissioner  
21 COMMISSIONER DiGUILIO: You're going to get into, or  
22 maybe Commissioner Ancheta, a little bit more on  
23 division of work in that regard so we can defer a  
24 little bit of that discussion.

25                  For the time that I have been chair for just a

1 week, this has been of primary concern, is getting a  
2 compilation of this data that we can study and actually  
3 be able to have constructive input on line drawing.

4 Commissioner Yao.

5 COMMISSIONER YAO: The work plan is very good  
6 detail, and I find myself agreeing with most of it.  
7 But I think, nevertheless, I would like to throw out  
8 another option for us to briefly discuss. I like the  
9 way the work plan is put together, the beginning and  
10 the end. I think we're now closer to the end than we  
11 were when we first designed the input meetings. And we  
12 already have committed to a second draft, and so that  
13 effort is ongoing starting tonight.

14 While we're going through that process, I feel  
15 we have been so focused on activity that we really  
16 haven't had time to sit down and think. And going  
17 through the drawing of the map last week, just looking  
18 at the very final version before we voted on it, the  
19 draft map, you know, just looking at it, I think all of  
20 us, myself definitely in that position, see that there  
21 are things that we could have done better if we had  
22 simply spent a little more time on it.

23 So the option I'm throwing out is we have more  
24 information than we can handle at this point in time,  
25 just -- just to echo my capability at this point in

1 time. We have more e-mail than we can possibly read.  
2 In just the last week between the time we released the  
3 map and today, we have over 700 suggestions. And we're  
4 finding difficulty in how to digest all that data.

5 So my proposal is perhaps we should skip the  
6 third draft because we're sending the expectation that  
7 we may not be able to meet. Just to be out there  
8 collecting more input and collecting another 700  
9 e-mails, what are we going to do with those? If we try  
10 to rush it through, I think we'll experience the same  
11 thing that we had last week in terms of getting --  
12 getting the final map out.

13 So I think maybe a different approach in  
14 looking at it is delay the release of the second draft  
15 so that we again collect as much as we can. And then  
16 beyond that point, don't do any more public outreach  
17 meetings but collect those information online and spend  
18 more time together with giving direction to the map  
19 drawers and really staring at the map for -- for -- for  
20 a period of time together so that we assure ourselves  
21 that we have a good product. I think that's a better  
22 use of time than to try to even squeeze in a Northern  
23 California or Southern California input meeting.

24 So my proposal is really we move those  
25 out-of-town activities and utilize them to -- to work

1 with the map drawers and work together and analyze it  
2 and making sure that we're absolutely comfortable with  
3 it.

4 COMMISSIONER DiGUILIO: So can I just  
5 reiterate? Commissioner Yao, what I hear you  
6 proposing, which kind of speaks a little to what  
7 Commissioner Barabba said, is not skip the third draft,  
8 but to skip the third round hearings all together, and  
9 that way we focus on digesting --

10 COMMISSIONER YAO: We'll still use your end  
11 date in terms of when we'll stop receiving comments  
12 from the public. We're not trying to shortchange their  
13 ability to comment on the map. But let's don't go on  
14 the road again, so to speak, and spend a lot of time  
15 traveling and soliciting additional inputs. As I have  
16 stated, I don't know how to process any more data than  
17 we already have received and also anticipating how much  
18 additional data that we'll get.

19 COMMISSIONER ANCHETA: Can I throw in a  
20 question while we're focusing on the hearings? I hope  
21 I'm not out of order here.

22 COMMISSIONER FILKINS WEBBER: No. I have a  
23 queue going, but I understand that you worked  
24 diligently on this.

25 COMMISSIONER ANCHETA: Yeah. This is a

1 separate document, which I will share, which is more  
2 detailed. The question is also consistent with that  
3 line of thinking. If you're also talking about setting  
4 up a fairly early deadline on the cutoff of written  
5 submissions, because consistent with that you sort of  
6 want to say we need to really look at it carefully.  
7 And given the volume of data, we need to stop fairly  
8 early to actually fully digest it all.

9 COMMISSIONER FILKINS WEBBER: Commissioner  
10 Blanco and then Commissioner Ward.

11 COMMISSIONER BLANCO: So I'm trying to see  
12 Commissioner Ancheta's work plan to make sure I'm not  
13 capturing in my comments something that he's going to  
14 propose to us.

15 COMMISSIONER ANCHETA: Just to preface this,  
16 Commissioner DiGuilio and I have been coordinating  
17 this, although I think our -- don't look at the dates  
18 so much on mine because they're not going to line up  
19 with hers. Hers, I think, are the most up to date.  
20 And I was actually doing a summary. It is supposed to  
21 be more of a micro level.

22 COMMISSIONER BLANCO: That's helpful. My  
23 comments are sort of more -- not about deadlines, but  
24 about process. So, one, I would agree that if -- that  
25 we may not need the third round of hearings. I think

1 my sense is in reviewing the comments that are coming  
2 in post-map, I find them to be very good, I mean, very  
3 helpful, very detailed suggestions. And I believe that  
4 after the second draft, they will become even more  
5 precise and helpful.

6 So I think that we might actually get more  
7 benefit -- we can do a better job having time to  
8 analyze those written things we'll get instead of  
9 public testimony. So I would agree with that if we get  
10 to the point of voting on that.

11 I wanted to get back to something Commissioner  
12 Barabba mentioned. I don't know if you were talking  
13 about the report, Commissioner Barabba, or if you were  
14 talking about really how we do this work going forward  
15 when you mentioned "regional."

16 My sense is that both --

17 COMMISSIONER GALAMBOS MALLOY: The latter.

18 COMMISSIONER BLANCO: The latter, that's what  
19 I thought. So I like the new timeline. But when I  
20 see -- and I'm referring now to the assumptions, the  
21 work plan assumptions. The concern I have is that --  
22 so we have three days of direction to line drawers, and  
23 then another two days of drawing maps after they go and  
24 they come back. I'm concerned that that is -- that is  
25 not that different than what we did the first time

1 around, and that that's not what we need at this point.

2 I think that if it is going to be two, three  
3 days of direction to the line drawers, it can't be us  
4 sitting in a room sort of for the first time looking at  
5 the maps and sort of saying, "Oh, I saw this comment  
6 here and --" I think that's sort of -- those days are  
7 gone. I think when we get to those three days that are  
8 in this schedule, they have to be days where a lot of  
9 work has gone before those three days.

10 So I think -- I would like to see us come up  
11 with -- the same way that at one point we had to have  
12 advisory subcommittees to get our work done, to have  
13 something similar in terms of regions of the map. That  
14 people can work with a group of two or three  
15 through the -- whatever way we do it. But so that when  
16 we come to those three days of drawing, it's not  
17 starting from scratch, but that we have recommendations  
18 that commissioners are making based on having looked at  
19 the comments we received where we can really see the  
20 big areas, and we don't just say "Oh, let's try this,"  
21 but where we might actually have some concrete  
22 suggestions.

23 And it kind of goes a little bit to what  
24 Commissioner Filkins Webber said, which is at this  
25 point now we're more in the stage of getting support,



1 where some people might be making recommendations and  
2 some people might not agree. But it is really at that  
3 level.

4 So I would like to see built into this work  
5 plan something that allows us to come to those three  
6 days with a lot already done, and not just kind of  
7 starting at the meeting, but where we have a lot of  
8 proposals that have been thought out and figuring out a  
9 structure today where we can do that.

10 COMMISSIONER FILKINS WEBBER: Commissioner  
11 Ward was next.

12 Commissioner Ward: First of all, I thank  
13 Commissioner DiGuilio and Commissioner Ancheta for this  
14 amazing amount of work in such a short amount of time.  
15 Thank you.

16 A question about the time we are going to have  
17 a draft and a final report that might be available to  
18 commissioners before the vote. And I just couldn't  
19 tell by the outline how many days in advance we would  
20 have the draft and final report before the actual vote  
21 were to take place.

22 COMMISSIONER DiGUILIO: In essence -- okay.  
23 The final report -- the final map we will really be  
24 able to see during these live line drawings sessions.  
25 This will not be where we give them direction and they

1 go back and change it. So you'll see -- if the  
2 proposed timelines sit, you'll know that by the 22nd of  
3 July. The final report we're checking exactly on the  
4 details. But from what we understand now, the final  
5 report doesn't actually have to be due until  
6 August 15th.

7 So the final report, which we anticipate  
8 having some commissioner oversight of that, will be an  
9 ongoing process. So there is not as much of a deadline  
10 in terms of -- similar to the final map. Granted, we  
11 don't want to turn something in on August 15 without  
12 commission review and approval. So that's part of the  
13 discussion -- I mean, part of the considerations that  
14 we're using right now.

15 Commissioner Ward: Okay. So the July 28th  
16 line item final maps and vote, can you define that for  
17 me?

18 COMMISSIONER DiGUILIO: Yes. That's the Q2  
19 reports that will go along with that, all the  
20 statistical data and -- but, yeah. City and county  
21 splits and all that material, those reports, the  
22 technical reports, as well as reports by our VRA  
23 attorneys, reports done by RPV analysis, all of that  
24 will have to be included in the final narrative report.  
25 And that's what will be put together.

1 But everything that is required to be  
2 accompanied by -- with the maps on a technical side  
3 will be due on that date. And that's what we will be  
4 voting on at that point, will be the maps and all the  
5 accompanying data with it that must be complete at that  
6 point.

7 Commissioner Ward: I have a comment or  
8 question. A point that Commissioner Blanco raised was  
9 intriguing about commissioners frontloading their ideas  
10 about where in the state they see areas or have areas  
11 of concern. One of the things I know that personally  
12 kind of tied me up is not having, you know, a full VRA  
13 analysis, you know, waiting for decisions on Section 2  
14 identified areas, RPV analysis, things like that.  
15 Where does that fit in? When do we expect all of that  
16 to be available so that we can actually do that from a  
17 data support position?

18 COMMISSIONER ANCHETA: Can I address that  
19 question?

20 COMMISSIONER FILKINS WEBBER: Commissioner  
21 Ancheta.

22 Did you see his summary from the e-mail?

23 Commissioner Ward: It just came up. I didn't  
24 have time to read it.

25 COMMISSIONER FILKINS WEBBER: I think Item 1-B

1 will answer your question.

2 Commissioner Ancheta, go ahead.

3 COMMISSIONER ANCHETA: 1-B is a proposal. But  
4 I think with respect to the VRA issues -- and this is a  
5 parallel thing with Commissioner Blanco's suggestion of  
6 other things we might do in advance of formal line  
7 drawing meetings, is do we want to proceed in parallel  
8 tracks where we can get some analysis done. And when  
9 we get to the formal line drawing meetings, we have a  
10 lot to work with already.

11 With the VRA analysis, again, we do have  
12 multiple consultants who can do that. To that extent,  
13 it makes sense to do quite a bit of advanced work. But  
14 there is a lot of -- there are some variations of how  
15 much you want to get done. You can get almost  
16 everything done if we're delegating everything. We can  
17 get quite a bit done if you're just doing fairly  
18 thorough analyses and have pretty much a lot of the  
19 basic outlines of the districts. And we obviously do  
20 have districts already. But further revised districts  
21 with built-in revisions and recommendations will be  
22 pretty much in place, and the commission would just  
23 sort of say, "Well, let's go with them or let's fix  
24 them." But much of the advance work will already be  
25 done. Again, because we do have to have polarized

1 voting now, and VRA council has to be engaged as well,  
2 it still makes sense to do it starting now and moving  
3 forward as we get to the period.

4 So one of the things we were going to raise,  
5 among others, was how should we engage in that process  
6 specifically around Section 2. Again, I think  
7 Commissioner Blanco raises a really important related  
8 issue, which is maybe we should do that with other  
9 things as well. Again, we've already made some  
10 suggestions and other comments regarding the processing  
11 of written comments and whether we should try to do  
12 specialization work with -- you know having subteams or  
13 various working teams that might be able to do some  
14 summaries.

15 Now, again, we're compromising certain things.  
16 We're not doing everything in full commission. We're  
17 up against certain timelines. So it's a choice we will  
18 have to make regarding how do we want to best use our  
19 time versus how much we all want to be part of the  
20 decision-making process.

21 COMMISSIONER FILKINS WEBBER: Commissioner  
22 Dai.

23 COMMISSIONER DAI: In line with Commissioner  
24 Blanco's comment, I was hoping that we were scheduling  
25 time at our Fresno meeting to at minimum get a read

1 back on -- there are a number of areas that we already  
2 flagged for Q2, and we said it is okay if you don't put  
3 it in the first draft but we want you to fix it in the  
4 next round. So we have already flagged a number of  
5 districts that we asked them to see if they could fix  
6 or try some alternatives.

7 I was hoping that by Fresno that we would  
8 actually be able to see if they were successful because  
9 that would be kind of a first read. And since then, of  
10 course, you know, we probably have a lot more thoughts  
11 particularly about the congressional and Senate  
12 districts. And I think it is great that we have kind  
13 of started flagging some of these areas as well.

14 But certainly it seems that given that we have  
15 already given that direction to Q2, it would be helpful  
16 to get that readout sooner than later because that may  
17 affect some of our other line drawing decisions down  
18 the road.

19 COMMISSIONER FILKINS WEBBER: The only thing I  
20 would say in that regard is we did flag them, but I  
21 don't know that we actually provided specific  
22 instruction as to what it was we would have them do.  
23 American Canyon is an example. I mean, we recognize we  
24 need to relook at that. We flagged it. We flagged it  
25 when we voted on it, but we have not given specific

1 direction to Q2. So we might want to highlight this  
2 for the agenda. I'm sorry, go ahead.

3 COMMISSIONER DAI: There are certain districts  
4 that we specifically gave them direction, specific  
5 things to try. And I know -- you're right, there are  
6 some we simply flagged. But there are several where we  
7 said, "Can you do this?" And they said, "We don't have  
8 time." We said, "You don't have to do it for this  
9 draft."

10 COMMISSIONER FILKINS WEBBER: So you think  
11 that Kyle took appropriate notes. And so the  
12 instruction when they're reviewing this audio and the  
13 transcript would be for them to take a look at those  
14 specific instructions that were documented by Kyle that  
15 did not wind up in the first draft maps and they may  
16 proceed with those instructions again.

17 Just to recap here, we have a an hour 45  
18 minutes. I don't know how long finance and public,  
19 even though this is the bulk of our discussion. The  
20 other way that I would like to focus this discussion a  
21 little bit is Commissioner DiGuilio is actually letting  
22 the commission know what action you would like us to  
23 take on your work plan and on specific items that might  
24 be a part of it. I really want to highlight this whole  
25 issue on, again, the duties of potentially Q2 in their

1 compiling of the data from the website and the public  
2 comments and input and how and when that information is  
3 going to get to us before we get to these meetings that  
4 everybody is talking about where we really want to  
5 deliberate and make decisions before we get to actual  
6 line drawing.

7 Are we going to be able to get to that  
8 discussion?

9 COMMISSIONER DiGUILIO: I don't think the  
10 discussion -- to be honest, I can say for that  
11 discussion that's one of the things we're working on  
12 right now, is recognition that there is everything  
13 from, you know, trying to get the COI access, the COI  
14 database, trying to look at some of the documentation  
15 from our previous districts, and how we're going to  
16 move forward in documenting commission decision  
17 direction for the future districts. A lot of that  
18 information we're working on right now. Our focus was  
19 to really get this work plan up and going.

20 So, hopefully, those will be able to be  
21 addressed so that before we get to the line drawing  
22 sessions, well before actually, we should be able to  
23 have that based on some of the parallel tracks that are  
24 going on.

25 COMMISSIONER FILKINS WEBBER: Okay. I would



1 like to take a break here momentarily for COMMISSIONER  
2 FILKINS WEBBER reporter to take and for us after we  
3 came back from lunch.

4 But do you have a summary of the action items  
5 you would like the commission to address before we get  
6 into the other advisory committee on this work plan?  
7 And if you do, do you want to highlight those and we  
8 can take a five-minute break and think about them?

9 COMMISSIONER DiGUILIO: No. I think I'm good  
10 to go, if everyone is okay with that. There's two real  
11 items I think I need to have addressed, which I  
12 mentioned.

13 Can I just put one more plug in for that  
14 shared Google document that has -- there's one called  
15 "Commissioners' Comments Regarding First Draft." I  
16 notice -- thank you, Commissioner Galambos COMMISSIONER  
17 GALAMBOS MALLOY: Who has already put in some things in  
18 there. I think this will speak to Commissioner Blanco  
19 concerns more. We can identify these starting today,  
20 whenever you have a chance. And even if it's ongoing,  
21 we will be that much further ahead when we get to line  
22 drawing. And this is where it comes down to you taking  
23 the opportunity to flag these so we don't have that  
24 discussion.

25 To that extent, I have also mentioned --

1 COMMISSIONER FILKINS WEBBER: I'm sorry, I  
2 don't mean to interrupt. I want to make sure I capture  
3 this. And you have all your notes in front of you.  
4 But the document that I believe you're talking about  
5 was a shared Google document, did you send it to the  
6 entire commission?

7 COMMISSIONER DiGUILIO: Yes, I sent it to the  
8 entire commission.

9 COMMISSIONER FILKINS WEBBER: Did you have  
10 clearance from Mr. Miller before you did so? Because I  
11 had sent you an e-mail that we wanted to be concerned  
12 -- I had a concern whether or not input of all  
13 commissioners on that Google doc may be problematic  
14 because we're looking at and sharing information  
15 regarding redistricting -- or materials or information  
16 outside of a public hearing. And I thought I flagged  
17 Mr. Miller on that. Because a compilation of all our  
18 ideas and thoughts and concerns and highlights in one  
19 document appears to be a coordination of efforts and  
20 discussion of redistricting matters outside of public  
21 hearing. That's why I wanted to get his input before  
22 you shared the document.

23 Ms. Johnston, are you familiar with this  
24 issue? And maybe Mr. Miller had asked you to look into  
25 it.

1 MS. JOHNSTON: I'm not familiar with the  
2 document in question, but I'd agree with your analysis.  
3 I guess the commission is making a group decision on a  
4 document --

5 COMMISSIONER DiGUILIO: No. It is not a  
6 decision. It's tracking comments about a district.

7 MS. JOHNSTON: But are you responding to each  
8 other's comments?

9 COMMISSIONER DiGUILIO: No.

10 COMMISSIONER FILKINS WEBBER: It's one  
11 document where each commissioner could actually add to  
12 a Google document outlining their opinion essentially  
13 as to districts that may need additional comment or  
14 discussion or deliberation by the commission.

15 MS. JOHNSTON: That sounds like it's an  
16 advisory committee, in fact, of three or more persons,  
17 which would require public notice.

18 COMMISSIONER DiGUILIO: So could individuals  
19 -- because this has started with people putting e-mails  
20 that have suggestions that would be directed to either  
21 Commissioner Ancheta or I, where we would keep a master  
22 list so that we can address these issues.

23 COMMISSIONER FILKINS WEBBER: Let me take this  
24 up with Mr. Miller because this is what has been a  
25 little problematic. Everybody has been so involved

1 after this draft map. We've gotten -- we were reading  
2 and we're trying to absorb all of this information.  
3 We're trying to put together this work plan. We really  
4 see how much work we need to do. And we're really  
5 trying to put together these strategies.

6 But I am very concerned about some of the  
7 information that has been moving about here, and that's  
8 why I asked them to pull back on this joint document.  
9 I haven't even looked at it because of this issue.

10 COMMISSIONER DiGUILIO: I would just like to  
11 then request that -- I'm taking people off right now.  
12 So there is not an issue. But that if we would like to  
13 explore this issue, this request by the commission,  
14 that we do as much preparation ahead of time and flag  
15 these things so that we don't have to spend time in the  
16 line drawing. That we need to have very quick legal  
17 counsel on this to turn it around because there has to  
18 be a way to capture this data and address these issues  
19 prior to the line drawing; otherwise, we'll be just  
20 where Commissioner Blanco said we were when it comes to  
21 Day 1 in line drawing.

22 MS. JOHNSTON: If you're doing it in groups of  
23 two, no more than two, then you may do it without a  
24 public meeting. If it's more than two, then a public  
25 meeting is required.

1 COMMISSIONER DAI: I have a question,  
2 Ms. Johnston. This is basically -- I mean, there is no  
3 discussion going on. We're just collecting a list.

4 COMMISSIONER FILKINS WEBBER: Why don't we do  
5 this, why don't I suggest this, let's take a break and  
6 let's -- I'm going to ask that Commissioner DiGuilio  
7 explain the document to Ms. Johnston, and Ms. Johnston  
8 can advise us. It is not that difficult. I think she  
9 can do it on the spot.

10 Commissioner Malloy.

11 COMMISSIONER GALAMBOS MALLOY: Well, I'm just  
12 wondering if we could extend the authority that we gave  
13 to Commissioners Ancheta and DiGuilio to be receiving  
14 and compiling the information just to be on the safe  
15 side. It seems to -- I don't know -- fit with the  
16 other work that they're doing in terms of laying out  
17 the timeline and the work plan and really looking at  
18 the scope of what lays ahead.

19 So I don't know if it would be both of them or  
20 one of them, but I would feel comfortable with  
21 delegating them that authority of simply compiling the  
22 full list.

23 COMMISSIONER FILKINS WEBBER: And  
24 commissioner -- I mean, Ms. Johnston and Ms. DiGuilio  
25 can discuss that as another option. In other words, we

1 can still achieve the purpose and goal that  
2 Commissioner DiGuilio would like to do, but we can do  
3 it in compliance with the law. And if that means just  
4 individual submissions -- and, again, Commissioner  
5 DiGuilio can explain this further to Ms. Johnston, and  
6 she can render an opinion.

7 Any other questions of our counsel during  
8 this -- just before we take this break to clarify this  
9 issue?

10 Seeing none, we'll go ahead and take a  
11 ten-minute break to 3:15. Thank you.

12 (A brief recess was taken.)

13 COMMISSIONER FILKINS WEBBER: We're resuming  
14 from our brief break so we can continue our work. And  
15 if Mr. Claypool can take his seat, only because I'm  
16 turning it back over to Commissioner DiGuilio.

17 We have highlighted three areas for this  
18 remaining discussion on tech and anything else that  
19 they would like to bring up. But just so we can move  
20 forward, again, we have an hour and 15 minutes; and we  
21 have two other committee reports to get to and a few  
22 final thoughts from the chair regarding this evening's  
23 meeting.

24 I'll turn it back over to Commissioner  
25 DiGuilio. Can you please provide us -- if we reached a

1 conclusion with Ms. Johnston's help regarding your  
2 suggestions.

3 COMMISSIONER DiGUILIO: Yes. So this is the  
4 benefit of not being an attorney. You can easily ask  
5 for forgiveness because you honestly had no clue.  
6 Despite my training, I should have realized this.

7 Okay. So what we decided, based on this,  
8 there are a couple comments that -- in our -- this  
9 commissioner cause regarding the first draft map. And  
10 we're going to post this document that has a couple of  
11 our comments on it, and that will be a static document.

12 But to address the issue of us trying to make  
13 some progress about addressing these issues prior to  
14 the actual line drawing sessions, what we have decided  
15 to do, based on our counsel's advice, is to encourage  
16 all the commissioners again to get all their comments  
17 together, to compile those, and to send them to staff.  
18 We sent Lon and Janeece -- should we just make it one  
19 person?

20 MR. CLAYPOOL: Send them to Janeece.

21 COMMISSIONER DiGUILIO: Send all of your  
22 comments to Janeece. And may I say that the way -- for  
23 ease of tracking would be to make sure you designate  
24 the district; Assembly, Senate, congressional. If you  
25 can, please try and identify the name of the district

1 -- those are the headings that are on the map already  
2 -- and then your comments. And also if you have any  
3 suggestion for improvement, of course, that would  
4 help as well. So, again, if you can identify the  
5 district, the district name, and what the comments  
6 are, that way what will happen is staff will compile  
7 that information. And if you can even title it  
8 "Commissioner Comments On First Draft Maps," something  
9 like that, so they'll easily be able to identify that.

10 And what we would like to do is have those  
11 comments to be able to review for our June 23 meeting.  
12 So that will give you a deadline of -- and let's say we  
13 would like to have one day to look at it. So let's say  
14 by June 21 you need to have all that information to  
15 Ms. Sargis. And that way she can compile that and give  
16 that back to us by June 22nd for our discussion on  
17 June 23.

18 So that means we'll have some work to do in  
19 reviewing those on the road. But if you can do that,  
20 that will move us along in the process quite a bit  
21 further. Okay. So that's the end of that.

22 COMMISSIONER GALAMBOS MALLOY: I was going to  
23 ask, if there was anything in the now defunct Google  
24 document that was feedback, will that automatically  
25 transfer to Ms. Sargis?



1 COMMISSIONER DiGUILIO: Yes. Well, the  
2 stuff -- it is going to be posted online, too. So I'll  
3 make sure she incorporates it.

4 COMMISSIONER FILKINS WEBBER: Next what we  
5 wanted to take a look at is continue our discussion and  
6 make decisions regarding the calendar.

7 COMMISSIONER DiGUILIO: Okay.

8 COMMISSIONER FILKINS WEBBER: So,  
9 Commissioner COMMISSIONER DiGUILIO: I'll turn it back  
10 over to you. Part of that discussion will be  
11 consideration of Commissioner Yao's comment regarding  
12 whether we will even have a second draft, and also  
13 looking at whether or not we would have any input  
14 after if we do have a second draft.

15 COMMISSIONER YAO: Correction, third draft.

16 COMMISSIONER FILKINS WEBBER: Third draft,  
17 excuse me.

18 COMMISSIONER DiGUILIO: No.

19 COMMISSIONER FILKINS WEBBER: The second  
20 draft.

21 COMMISSIONER DiGUILIO: There is no third  
22 draft.

23 COMMISSIONER FILKINS WEBBER: And then the  
24 third round of input post-second draft if we do that.

25 So Commissioner DiGuilio.

1 COMMISSIONER DiGUILIO: Okay. I'm going to  
2 throw out the original idea that we wanted to do with  
3 the proposed timeline. But I'd -- not to throw a  
4 wrench in it, but I think we have to put this  
5 discussion on the table. Currently the proposed  
6 timeline would be moving the second draft date to the  
7 12th, with the possibility of maybe even pushing it to  
8 the 14th if we had to.

9 The one -- so this is what I would like to see  
10 if the commission would like to vote on. But before we  
11 take that vote, let me throw this other idea out. I  
12 think it is a little bit of what Commissioner Yao was  
13 saying. But there is concern that we are -- there's  
14 still the concern that we're not going to be able to  
15 process all the public comments, take into  
16 consideration -- I should say take into consideration  
17 all the public comments if we have limited time to  
18 review those public comments before we start giving  
19 direction to line drawers.

20 And a reminder that any public comments that  
21 come after the second draft map are going to be able to  
22 be minimally incorporated into the final draft map  
23 unless they are really those neighborhood and community  
24 levels.

25 The one thing we should consider is not having

1 a second draft map. If we don't have a second draft  
2 map, then we are able to push back the ability to get  
3 public comments in, processed, and back to us as  
4 commissioners for our consideration. So that when we  
5 do go into the final line drawing sessions, we'll have  
6 enough time to take into consideration and to  
7 incorporate those into our line drawing sessions.

8 The problem -- so that's the issue. And  
9 because if we have a second draft map, the last date to  
10 submit that would be July 14th. You have to have 14  
11 days' public review. So we can't -- we've already  
12 pushed back that second draft map as far as we can.

13 So the tradeoff here is if you would like to  
14 have a second draft map, then we will have less time to  
15 review those public comments. If you would like to  
16 have more time to review the public comments, then most  
17 likely that will result in not having a second draft  
18 map.

19 COMMISSIONER FILKINS WEBBER: So at this time,  
20 I would like us to focus on this issue first because it  
21 will make -- it will affect how we take a look at the  
22 calendar.

23 Does anyone have any comments? Commissioner  
24 Raya.

25 COMMISSIONER RAYA: Question, is there another

1 option having the second draft without hearings?

2 COMMISSIONER DiGUILIO: Yes. You can have the  
3 second draft map without -- the hearings really are not  
4 a part of the discussion in terms of whether we have a  
5 second draft map because the point of moving -- the  
6 point of -- the only reason we would not have a second  
7 draft map is because you would have to push out that  
8 date -- in order to incorporate the public comments  
9 into that second draft map, you would have to push it  
10 out so far that you could not allow for the 14-day  
11 public review period that's necessary before we would  
12 do a final map.

13 So, in essence, the tradeoff is you -- we  
14 could still have no public input hearings in the third  
15 round but still want to have a second draft, but it  
16 could only be the 14th at the latest.

17 COMMISSIONER RAYA: Okay. Well, the reason I  
18 was asking it in that way is that having the second  
19 draft, I mean, could essentially end up being the final  
20 map regardless of what kind of input you get after the  
21 second draft comes out. Otherwise, if you don't have  
22 any other extra hearings, that buys us four days, is  
23 how I look at it because of travel time and hearing  
24 time.

25 So I'm wondering if you sort of accomplish the

1 same thing, you have the second draft but no, you know,  
2 personal appearances.

3 COMMISSIONER DiGUILIO: I think the only --  
4 well, let me see if I have this right. Maybe I'm not  
5 quite understanding it. But I think what we're trying  
6 to say is how much do you want to incorporate public  
7 comments into the second map versus how much you want  
8 to incorporate them into the final map. Because the  
9 public comments you receive for the final map would be  
10 -- even if we were able to review them -- what we could  
11 do with them is much more limited than what we can do  
12 with the public comments for the second map.

13 And so it is not that we're trying to  
14 prioritize the public comments for the second -- for  
15 the -- to be incorporated in the second draft map are  
16 more important, but that the reality we'll be able to  
17 accommodate those public comments more in a second  
18 draft map.

19 So the idea is if we want to maximize that  
20 consideration of public comments, that would mean  
21 pushing that second draft map back so far that it would  
22 be, in essence, your final map.

23 COMMISSIONER FILKINS WEBBER: Commissioner  
24 Malloy.

25 COMMISSIONER GALAMBOS MALLOY: I want to make

1 sure I'm understanding the option that's on the table.  
2 And I'm looking at the dates on your proposed work plan  
3 timeline, and I just want to walk through a couple of  
4 the key milestones.

5 COMMISSIONER DiGUILIO: Okay.

6 COMMISSIONER GALAMBOS MALLOY: So if we say  
7 that July 12th is the second draft map release, and  
8 what I also heard was that we would need five days  
9 prior to the summary of public comments in order to --  
10 you have a cutoff period, say, on the 15th. So we  
11 would essentially have from the day we release, the  
12 12th, we would have until the 15th to review public  
13 comments that are coming in. And then there would be a  
14 cutoff, and we're saying public at this point comments  
15 are not going to influence the maps any more. We get a  
16 summary on the 20th. And then on the 21st, we  
17 immediately go into line drawing.

18 Is that a rough --

19 COMMISSIONER DiGUILIO: I think it is what you  
20 would do with the public comments that you set for the  
21 final map. I mean, it's not that they just -- they  
22 would have to be the public comments that are just  
23 focused on the very small details. That's all we're  
24 doing for the final map, is the small detail  
25 correction. It is the nature of what -- of what we

1 would be doing in the line drawing -- the live line  
2 drawing directions for the final map. We're not -- we  
3 might be getting a ton of public comments, but only  
4 what could be incorporated are those that are related  
5 to the nuances.

6 So that's where I'm saying I think there is  
7 more opportunity to take into consideration public  
8 comments for the second draft map than there is for the  
9 final draft map. So if that is our assumption, that we  
10 can really -- we can honor some of those public  
11 comments better in the second draft map, then we have  
12 to ask ourselves how much time do we want in order to  
13 be able -- for us as commissioners to process that and  
14 for our technical team to be able to get those comments  
15 to us knowing that even our public -- last public  
16 hearing and coding that data and turning it around in a  
17 report is only two days prior to when they're supposed  
18 to summarize. And that's what they need to give to us.  
19 So if we're getting the summaries the day before we do  
20 the line drawing, there is not a lot of time for us to  
21 process those comments.

22 COMMISSIONER FILKINS WEBBER: Commissioner  
23 Barabba.

24 COMMISSIONER BARABBA: I'm in favor of having  
25 the second draft map for -- not just for the purpose of

1 having people react to it, but giving us input back.  
2 But I think the release of the first draft maps had a  
3 really important role to play in the education of what  
4 we were doing. And I think the way the press and  
5 interested parties got involved in discussing the maps,  
6 I think was really quite beneficial for society as a  
7 whole.

8 It would seem to me that if we came out with  
9 our second draft maps, as we would expect there would  
10 be an improvement on the first, I think just getting  
11 that out and letting people understand that we are at a  
12 process and we're informing them of the changes that we  
13 made and that we are not in the position to make a lot  
14 of other changes other than some fine-tuning, I think  
15 that sends a much better message.

16 COMMISSIONER FILKINS WEBBER: Okay.  
17 Commissioner Yao.

18 COMMISSIONER YAO: I'm also in support of  
19 having the second draft map. While we're working on a  
20 map starting now, until such time that we finalize the  
21 map, we always have a latest version of the map. So it  
22 doesn't really have to be, quote, unquote, "meeting a  
23 certain criteria" before we can release it as a draft.  
24 Just having a release of a map gives the public a  
25 better idea as to where we stand. I think for that



1 reason, it is probably very important to keep that  
2 second draft going.

3 COMMISSIONER FILKINS WEBBER: Commissioner  
4 Ontai.

5 COMMISSIONER ONTAI: Just to carry on with  
6 what Commissioner Barabba said, you know, we've got  
7 some really good comments back, I think, after release  
8 of the first map. And that's, I think, really helping  
9 us to shape our decisions at this point. I'll just  
10 carry on the same comment that Commissioner Barabba  
11 said. I think we should really think about shortening  
12 this process, and I think Commissioner Yao's suggestion  
13 is a good one.

14 COMMISSIONER FILKINS WEBBER: Commissioner  
15 Ward.

16 Commissioner Ward: I concur with Commissioner  
17 Ontai with shortening the third-round process as we  
18 talked about a couple weeks ago. I do think it is  
19 important to do outreach and hearings after release of  
20 the second draft map. Obviously, we promised a second  
21 draft map to the public throughout this process. And  
22 I'm most concerned that the first draft was a  
23 self-described rough. There was no -- like I said,  
24 there was little VRA analysis done. We have got a lot  
25 of data still to come in that is going to dramatically

1 shift what's out there.

2 And so I'm concerned that a lot of public  
3 comment that we're getting is probably reactionary to  
4 the first draft that we released, which probably is  
5 going to evolve into something drastically different by  
6 the second time around. So a lot of the reaction and  
7 public comment to that first rough draft might not be  
8 so helpful in the later stage. Versus if we get a  
9 second draft out there, we're going to get more  
10 meaningful input on how to fine-tune it and make it a  
11 better product.

12 I'm, again, really in favor of doing some  
13 public hearing after the second draft mostly because in  
14 looking at the schedule, it's going to be really tight.  
15 It seems, from what I can tell, from the time that the  
16 RPV data and VRA analysis all together is done, if that  
17 would be implemented into the second draft or not. And  
18 if it is not, then it will be done obviously between  
19 the second draft and third draft. And I think it would  
20 be really important to get some public comment and  
21 feedback on what all the results of all that shows  
22 applied to our maps.

23 COMMISSIONER FILKINS WEBBER: Commissioner  
24 Forbes.

25 COMMISSIONER FORBES: Yes. I would like to

1 concur with Commissioner Barabba, but also I think  
2 Commissioner Ward made an important comment. We have  
3 created an expectation that there is going to be a  
4 second draft. We have said that for six months. I  
5 don't think at this point we can say, "Oh, we changed  
6 our mind, we're not going to have a second draft."

7 With regard to having public outreach  
8 meetings, I think that's still for me an open question.  
9 Again, one of the main reasons for having two public  
10 outreach meetings is we said for months that we would  
11 have public outreach meetings after the second draft.  
12 So meeting public expectation is part of what we're  
13 about. And so that's my comment.

14 COMMISSIONER FILKINS WEBBER: It looks like  
15 everybody wants to chime in. So I'm going to give  
16 everybody just one final thought on that because we can  
17 move forward. But I've got Commissioner Dai,  
18 Commissioner Blanco, and Commissioner Aguirre. I think  
19 everybody has spoken almost.

20 COMMISSIONER DAI: I will be brief. I support  
21 the idea of doing a second draft map. I don't think we  
22 need to do public hearings after that. I think we can  
23 accept public comment electronically and actually be  
24 very specific about what kind of comment we're actually  
25 going to be able to take into account.

1 I think it is important to set expectations  
2 with the public. You know, if they think they're going  
3 to see the same level of changes that they saw between  
4 the first and the second and then the second and final,  
5 that's not going to happen. So I think going out and  
6 having public hearings actually raises that  
7 expectation. And so I think I would be against  
8 actually doing public hearings after the second draft,  
9 but accepting public comment.

10 COMMISSIONER FILKINS WEBBER: Commissioner  
11 Blanco.

12 COMMISSIONER BLANCO: So I also agree we  
13 should have a second draft. We now in hindsight know  
14 that we have released a rough, rough draft. And who  
15 knows, even though our second, you know, iteration we  
16 are now thinking is going to be 99.9 percent final, you  
17 never know. You never know what's going to happen, you  
18 know, after the second draft and the comments that come  
19 in.

20 So I think we should do it for expectations  
21 and also because I have been incredibly impressed with  
22 the comments we've gotten. And a lot of the comments  
23 have filled in gaps that we had where communities had  
24 not turned out in person. And our first maps  
25 reflected, to some extent, I'd say a little bit of a

1 lopsided emphasis on those that appeared before us and  
2 didn't capture those that had been silent. That may be  
3 also -- that dynamic can happen one more time, although  
4 we're beginning to see more feedback.

5           So I'm -- I think we should do the second  
6 draft. I think we should think carefully about what we  
7 do with the next -- the -- what we're calling input  
8 hearings after that second draft. I'd like for us to  
9 be kind of creative and strategic. I know I have  
10 raised to some people the fact that just like we had at  
11 one point statewide or multidistrict hearings where  
12 people that were doing multidistrict maps could present  
13 those. Would we want to have, say, an L.A. hearings?

14           I think when we do the second draft maps, we  
15 will have a sense of what were the areas that still we  
16 know are sort of the most complex. And we might want  
17 to -- and we probably know those now to some extent.  
18 We might want to be very targeted in terms of written  
19 submissions. But, you know, getting -- soliciting -- I  
20 think our counsel has been very clear that we can  
21 actually ask people to come and make presentations to  
22 us, that not everything -- so I think -- I guess I'm  
23 saying I don't think we have to have the hearings. I  
24 think we should have the input that comes to us in  
25 whatever form is the most effective and of best use for

1 us, and not necessarily stick to the same format,  
2 because I do think the travel time eats up a lot of  
3 time.

4 But that doesn't mean -- that we're not doing  
5 hearings doesn't mean we're not getting feedback. I  
6 think we just have to be more creative and strategic  
7 about how we get the feedback.

8 COMMISSIONER FILKINS WEBBER: Commissioner  
9 Aguirre.

10 COMMISSIONER AGUIRRE: Yes. I agree with  
11 Commissioner Blanco and others who have argued for  
12 draft maps, perhaps without any hearings. Although  
13 there will be some things, as we move very fast toward  
14 this goal, there will be areas that we will call  
15 extraordinary for our attention. So retaining the  
16 flexibility for us to go and visit in those areas or  
17 those regions where the necessity arises.

18 COMMISSIONER FILKINS WEBBER: Commissioner  
19 DiGuilio.

20 COMMISSIONER DiGUILIO: Okay. So I think this  
21 is maybe a time for a motion regarding the timeline.  
22 And I think -- I'm glad we had this discussion because  
23 I think it re-emphasizes what Commissioner Ancheta and  
24 I originally had, was a second draft map and how to  
25 made that happen, with the most ability for us as

1 commissioners to be able to have more time with our  
2 line drawers.

3 To that extent, I do think that we also  
4 realize that there is going to be limited -- by having  
5 a second draft map, it does limit us an ability to  
6 synthesize the public comments to the commissioners.  
7 To that end, I will put that on the list to work out  
8 some more details with our staff and our consultants  
9 into how we can try and have -- I don't know if there's  
10 options to be able to take public comments and  
11 summarize those on an ongoing basis between now and our  
12 first -- I think we're limited.

13 But I will say that I will task myself of  
14 trying to find the best option to have to get feedback  
15 to the commissioners about our public comments. I will  
16 put that high on the list, but know it is limited if we  
17 go to the second draft maps. So we will really do our  
18 best.

19 COMMISSIONER FILKINS WEBBER: What it sounds  
20 like is this commission is agreeing we will have the  
21 second draft. So if we can move to the discussion  
22 between the 12th and the 14th and whether we would  
23 agree to push back from the 7th.

24 COMMISSIONER DiGUILIO: Correct. So I think  
25 under the proposal, I would say we would have the 12th

1 be the release of our second draft map, knowing that we  
2 have the ability to go to the 14th as our drop-dead,  
3 but I would like that we could be maybe efficient and  
4 move forward. And knowing, too, that there is a  
5 holiday in the middle of that, not that -- I think in  
6 our life, it doesn't matter if it is a holiday or a  
7 Sunday or midnight. I think everything blurs.

8 But I would like to propose now that we shoot  
9 for the 12th and know that we have some wiggle room.

10 COMMISSIONER FILKINS WEBBER: Are you making a  
11 motion in that regard?

12 COMMISSIONER DiGUILIO: I would like to see if  
13 the commission is willing to adopt the proposed work  
14 plan timeline as suggested?

15 COMMISSIONER YAO: Second.

16 COMMISSIONER DiGUILIO: Correct. It would be  
17 release of the second draft map would be pushed to  
18 July 12th.

19 COMMISSIONER ONTAI: Second.

20 COMMISSIONER FILKINS WEBBER: Any discussion  
21 on the motion? Commissioner Galambos Malloy.

22 COMMISSIONER GALAMBOS MALLOY: I just have a  
23 clarification. Where there are dates that are  
24 currently calendared to have meetings, but they are not  
25 reflected on the work plan, are we to assume that those



1 dates will be released?

2 COMMISSIONER DiGUILIO: We would -- once we  
3 get approval from this commission on this proposed  
4 timeline, then we would be working with our staff to  
5 adjust the dates and the agenda -- the notice  
6 accordingly. We just didn't want to duplicate work for  
7 them until we had it finalized.

8 And I would just say that this motion will  
9 include not just the 12th as the draft map release  
10 date, but then the according dates prior to that in  
11 terms of increasing our contact with the line drawers,  
12 to have two options to talk to them in depth.

13 COMMISSIONER FILKINS WEBBER: That's where I  
14 find -- I'm sorry, are you finished?

15 COMMISSIONER GALAMBOS MALLOY: I just have one  
16 follow-up, then, just to note that the work plan is  
17 really focused on the map -- making function of the  
18 commission, and we have not integrated into that the  
19 business meeting side. So what I'm assuming, from what  
20 you're saying, is then you'll be working with staff to  
21 finalize when we will need agenda business meetings  
22 other than just line drawing sessions?

23 COMMISSIONER DiGUILIO: Yes. Janeece will  
24 cover my back on that, yes.

25 COMMISSIONER FILKINS WEBBER: Actually, I just

1 want to make sure I have clarification of your motion,  
2 because it sounds like there was two items essentially.  
3 An adoption of your timeline, and your proposed work  
4 plan, which will be June 28 through July 31. And in so  
5 doing, we would be pushing the draft map back to  
6 July 12; is that correct?

7 COMMISSIONER DiGUILIO: I would like to be  
8 clear that this is to propose the work plan timeline as  
9 it is stated here, and that does have included within  
10 it the draft date of the second -- the release of the  
11 second draft map as July 12th.

12 COMMISSIONER FILKINS WEBBER: Commissioner  
13 Parvenu.

14 COMMISSIONER parvenu: I just want to get an  
15 idea on that Tuesday, the 12th, where we will be  
16 meeting at. I'm assuming it is going to be similar to  
17 what we did with release of the first.

18 COMMISSIONER DiGUILIO: I believe so, yes.  
19 And can I just -- can I make that the caveat to that  
20 timeline is pending the final decision on the third  
21 round input hearings, or do we want to have that  
22 discussion now and include that? Because it  
23 sounds like there is still --

24 COMMISSIONER BARABBA: Separate.

25 COMMISSIONER DiGUILIO: So maybe I should say

1 -- let me take out the July 16th and 17th third round  
2 input hearings that are suggested, remove that from  
3 that proposed timeline, and the rest of it will stand;  
4 and we'll have a discussion for the third round input  
5 hearings as a separate issue.

6 COMMISSIONER FILKINS WEBBER: So you're  
7 amending your motion. Ms. Sargis, we're amending the  
8 motion to be -- to ask the commission to adopt the work  
9 plan timeline from July 28 through July 12th.

10 And who seconded the motion?

11 COMMISSIONER BARABBA: I did.

12 COMMISSIONER FILKINS WEBBER: And you concur  
13 with the amendment?

14 COMMISSIONER BARABBA: Absolutely.

15 COMMISSIONER FILKINS WEBBER: I have  
16 Commissioner Yao and Commissioner Ward.

17 COMMISSIONER YAO: The second draft is as much  
18 for the public as it is for us. We're working on it.  
19 And I think the earlier we release it the more the  
20 public would have a better idea as to where we stand,  
21 where we're heading, which direction we're leading. We  
22 don't know again at that particular time what remaining  
23 work we have to do prior to the release by the final  
24 map. I think at this stage of the game eating another  
25 week into the schedule and shortening our opportunity

1 to make any further changes or adjustments timewise  
2 is -- is not appropriate. So I won't be supporting  
3 this new schedule.

4 COMMISSIONER FILKINS WEBBER: Commissioner  
5 Ward.

6 Commissioner Ward: Yeah. I just -- I think I  
7 definitely understand the necessity to change the  
8 second draft to the 12th. I think the concern I had is  
9 with this motion is leaving a flexibility to push it  
10 back to the 14th as an option. I think I would be more  
11 comfortable with making the 12th a hard deadline mainly  
12 because of the five days between the 23rd and 28th.  
13 That leaves the public and us as a commission really  
14 very little time to fine-tune -- get any kind of  
15 feedback on that map and then fine-tune anything.

16 COMMISSIONER DiGUILIO: I would be willing to  
17 accept July 12th as hard deadline.

18 COMMISSIONER FILKINS WEBBER: Commissioner  
19 Barabba, do you concur?

20 COMMISSIONER BARABBA: Yes, I do.

21 COMMISSIONER FILKINS WEBBER: Any further  
22 discussion especially with this amendment?

23 COMMISSIONER DiGUILIO: So it would be for the  
24 entire work plan timeline from June 28 to July 31st,  
25 with the exception of this -- the July 16th and 17th

1 third round input hearings.

2 COMMISSIONER FILKINS WEBBER: So you modified  
3 it again?

4 COMMISSIONER DiGUILIO: No. That is what it  
5 was. I think you had reclarified it. I want to make  
6 sure that she understood it. Because you had said up  
7 until July 12, second draft map release; and that was  
8 not my proposal. My proposal was the work plan  
9 timeline from June 28 to July 31, with the exception of  
10 the July 16th and 17th third round input hearings.

11 COMMISSIONER FILKINS WEBBER: I apologize. I  
12 misunderstood.

13 Ms. Sargis, do you understand that?

14 MS. SARGIS: Yes.

15 COMMISSIONER DiGUILIO: And let me clarify why  
16 I say that. It is only because I think the -- what we  
17 have talked to with Ms. McDonald in terms of what is  
18 necessary to do the final -- for us to do the  
19 operations of the final -- final map is not -- I'm not  
20 going to say it is not negotiable, but that's kind of  
21 what the needs have been relayed to us. So that  
22 structure wouldn't change. It was just simply the  
23 discussion of the third round input hearings for a  
24 later time.

25 COMMISSIONER FILKINS WEBBER: Commissioner

1 Barabba, was that your understanding?

2 COMMISSIONER BARABBA: Yes, it was.

3 COMMISSIONER FILKINS WEBBER: Okay. And,  
4 Ms. Sargis, do you have that down? I don't want to  
5 have you read it back yet, but if you have any  
6 questions, because I need to get to Commissioner  
7 Ancheta before we vote.

8 MS. SARGIS: I believe I have it.

9 COMMISSIONER FILKINS WEBBER: Thank you.  
10 Commissioner Ancheta.

11 COMMISSIONER ANCHETA: I did want to note the  
12 timeline does not include any discussion of the reports  
13 that are supposed to accompany the maps. But I believe  
14 because we're taking that as a separate discussion, I  
15 know we'll talk about the scopes of the reports and the  
16 particular deadlines and timelines for those as a  
17 separate matter. Assuming we have timelines to those,  
18 they will be integrated into those timelines as well.

19 COMMISSIONER FILKINS WEBBER: We understand  
20 the business meetings are not in these either. This is  
21 simply map drawings and hearings.

22 Any further discussion on this motion? Any  
23 public comment on the motion? I see none.

24 Then I would ask for Ms. Sargis to read the  
25 motion back.

1 MS. SARGIS: The motion is to adopt a proposed  
2 work plan that spans June 28 through July 31, with the  
3 exception of the 16th -- July 16th and 17th input  
4 hearings and change the release date of the second  
5 draft maps to July 12th.

6 COMMISSIONER DiGUILIO: I would just add that  
7 it was the proposed work plan timeline.

8 MS. SARGIS: Timeline. I do have a question.  
9 The work plan, is that the one at Google docs, or is it  
10 a different one?

11 COMMISSIONER DiGUILIO: The work plan timeline  
12 is under the one that I had put on Google docs, which I  
13 gave you access to for the work plan assumptions and  
14 timeline.

15 COMMISSIONER FILKINS WEBBER: It's entitled  
16 "Work Plan Assumptions Timeline."

17 MS. SARGIS: Thank you.

18 COMMISSIONER FILKINS WEBBER: May we have a  
19 rollcall vote on the motion, please?

20 I already opened it up. There was no public  
21 comment. Go ahead, Ms. Sargis.

22 MS. SARGIS: Commissioner Aguirre?

23 COMMISSIONER AGUIRRE: Yes.

24 MS. SARGIS: Ancheta?

25 COMMISSIONER ANCHETA: Yes.

1 MS. SARGIS: Barabba?  
2 COMMISSIONER BARABBA: Yes.  
3 MS. SARGIS: Blanco?  
4 COMMISSIONER BLANCO: Yes.  
5 MS. SARGIS: Dai?  
6 COMMISSIONER DAI: Yes.  
7 MS. SARGIS: DiGuilio?  
8 COMMISSIONER DiGUILIO: Yes.  
9 MS. SARGIS: Filkins Webber?  
10 COMMISSIONER FILKINS WEBBER: Yes.  
11 MS. SARGIS: Forbes?  
12 COMMISSIONER FORBES: Yes.  
13 MS. SARGIS: Galambos Malloy?  
14 COMMISSIONER GALAMBOS MALLOY: Yes.  
15 MS. SARGIS: Ontai?  
16 COMMISSIONER ONTAI: Yes.  
17 MS. SARGIS: Parvenu?  
18 COMMISSIONER PARVENU: Yes.  
19 MS. SARGIS: Raya?  
20 COMMISSIONER RAYA: Yes.  
21 MS. SARGIS: Ward?  
22 Commissioner Ward: Yes.  
23 MS. SARGIS: Yao?  
24 COMMISSIONER YAO: No.  
25 MS. SARGIS: Motion passes.



1 COMMISSIONER FILKINS WEBBER: We're really  
2 running out of time here. Let's quickly have a  
3 discussion, let's say, for five minutes -- it shouldn't  
4 be much -- about what the issue is on whether we're  
5 going to have the input hearings or what type of  
6 hearings we're going to have, or would the commission  
7 wish to defer this until next week and think about it a  
8 little bit? Defer or would you like to make a decision  
9 and discuss it now? I'll leave it up to Commissioner  
10 COMMISSIONER DiGUILIO: As well, in your work plan.

11 COMMISSIONER DiGUILIO: I'm sorry, I was  
12 looking at Ms. Sargis in terms of -- I believe she gave  
13 us a drop-dead timeline for making those decisions.  
14 Was that June 23rd, is the deadline? I think we were  
15 hoping to have a decision on the third round today.

16 COMMISSIONER FILKINS WEBBER: You're right.  
17 We do have venue issues. So the proposal -- some of  
18 the discussion has been -- I'll leave it up to  
19 Commissioner Dai to start us off.

20 COMMISSIONER DAI: I would like to make a  
21 motion that we not hold public input hearings for the  
22 third round but still accept public comment with a  
23 cutoff date to be determined by our work plan team.

24 COMMISSIONER RAYA: Second.

25 COMMISSIONER FILKINS WEBBER: Just pause

1 momentarily to make sure Ms. Sargis can get it down.

2 Any discussion on the motion? Commissioner  
3 Aguirre and Commissioner Ward.

4 COMMISSIONER AGUIRRE: Does that include the  
5 possibility of going to a particular area as necessary,  
6 as needed; or is it just no -- absolutely no public  
7 hearings at all?

8 COMMISSIONER DiGUILIO: I'm going to have  
9 Commissioner Dai answer that. But I think that the  
10 issue with going to specific places is raising the  
11 expectation that we'll be able to work -- we're going  
12 there for some real input from them. To be honest, at  
13 that point what we'll be doing for the last draft map,  
14 the final map, will be on a very small nuance level.

15 So if we identify and we say we haven't quite  
16 got it right in this area, so we're going to come back  
17 and talk to you about that, we have to have it right in  
18 the second draft map in terms of overall. What we  
19 don't have right may be how we split your neighborhood  
20 or your street or your community.

21 So I think it's hard to go to just two places  
22 in a state trying to get that level of detail. It's  
23 almost not fair. I'm hoping we can do some targeted  
24 strategic outreach to those areas that we have  
25 identified so we can incorporate it into the second

1 draft map.

2 COMMISSIONER FILKINS WEBBER: Commissioner  
3 Ward.

4 Commissioner Ward: My concern about this  
5 motion is that it kind of violates the very spirit of  
6 what we tried to accomplish as a commission with  
7 transparency and making the public part of the process.  
8 The thought of releasing a second draft, which is  
9 really at this point going to be our first map that's  
10 going to have a lot of the full data set in it -- built  
11 into it, and not going back out to the public and  
12 providing them a chance to directly address it and  
13 provide us options to make it better, especially in  
14 light of the fact that we already have identified that  
15 written comment has been robust and difficult to keep  
16 up with as it is. To leave that as the only viable  
17 avenue for the public to express their opinions about  
18 the second draft I think is not adequate.

19 So I would urge the commission to carefully  
20 consider what -- not only what it does to, again, the  
21 process of this commission and what we're trying to  
22 accomplish, but also if it does, in fact, diminish the  
23 public's voice in being able to provide input and  
24 getting this right.

25 COMMISSIONER FILKINS WEBBER: I had you next,

1 Commissioner Barabba, from earlier.

2 COMMISSIONER BARABBA: I appreciate  
3 Commissioner Ward's comments. But it's one thing to go  
4 out there and get input and then do something with it.  
5 In this case, we would be going out there and getting  
6 input and then not being able to do anything with it,  
7 which I think in this case would not be in the spirit  
8 of how we started this.

9 COMMISSIONER FILKINS WEBBER: Commissioner  
10 Blanco.

11 COMMISSIONER BLANCO: Well, I was thinking of  
12 kind of a compromise on this. I'm concerned about  
13 the -- about comments after the second draft. I think  
14 we have said that we will, of course, take written  
15 comments. But I'm wondering if -- I know I'm beginning  
16 to sound like a broken record. But I wonder whether  
17 instead of sort of going on the road, which is part of  
18 what takes a lot of time, is if we had a situation  
19 where we set aside a day or two days or were in one  
20 place and people come to us. I mean, we did that at  
21 the beginning where people came to us. We had a couple  
22 of -- maybe a full day hearing where people came to us.  
23 And I remember they presented to us what they were  
24 doing in terms of outreach.

25 So whether we could set aside a day where

1 people could come. And if there are just things that  
2 people absolutely need to have heard -- have us hear  
3 and present to us, we could do that, but not -- I agree  
4 that going back out on the road and sort of raising  
5 this expectation that we're doing this public hearing  
6 process like we have been doing where people will come  
7 and make changes is a false expectation.

8 So -- but I am reluctant to not have at least  
9 one opportunity in a hearing -- in a public hearing  
10 where people could come right -- you know, before we  
11 say we're done and -- so that's -- I would like some  
12 reactions to that notion.

13 COMMISSIONER FILKINS WEBBER: Commissioner  
14 Raya.

15 COMMISSIONER RAYA: Even going to one place  
16 means some people have to travel, so whatever direction  
17 it happens to be. So I think that's still a concern.  
18 I think the difficulty -- the difficulties have been  
19 stated somewhat -- you know, just having two places to  
20 go is not going to nearly cover -- that there are going  
21 to be people dissatisfied that they did not have the  
22 opportunity to speak.

23 But more than that, even if you do it, we've  
24 already seen -- and I'm sure we're going to see tonight  
25 and the following nights the frustration that many

1 members of the public feel when they find out they have  
2 two minutes to rush through a presentation. So if they  
3 have something really important to say, you know, the  
4 chance of getting it in may not even exist at all given  
5 the limits on our time.

6 One of the things that Mr. Wilcox and I talked  
7 about was in the outreach or the informational side of  
8 this for the current set of hearings and going forward  
9 is, you know, how to focus -- how to frame the issues  
10 and help the public focus on what we're looking for.  
11 And just -- I don't know how realistic this is, and you  
12 guys are going to laugh given that I'm the one  
13 proposing it, but something like a virtual hearing.

14 Am I right, technology exists? Okay. Good.  
15 Thank you.

16 We could all be somewhere or half of us could  
17 be there and the other half -- you know, half in  
18 Northern California and half in Southern California and  
19 connect in some way. People can go somewhere and talk  
20 to us.

21 COMMISSIONER FILKINS WEBBER: Commissioner  
22 Malloy.

23 COMMISSIONER GALAMBOS MALLOY: I'm so amazed  
24 that Commissioner Raya got to it before I was going to  
25 suggest it. I think that what really unites us across

1 the commission is the value that we put on the public  
2 testimony. And so what we're grappling with here is  
3 not whether we value it, but how we think we can best  
4 maximize it given the amount of resources and the  
5 amount of time we have.

6 So I was thinking something along the lines of  
7 what Commissioner Raya suggested. You know, what if we  
8 did have a regional approach, you know, potentially a  
9 Northern California, Southern California. Let's just  
10 take that as an example. But maybe the Northern  
11 California commissioners could go to a certain  
12 location. Members of the public could come there.  
13 Other commissioners can convene somewhere in Southern  
14 California and be able to participate in proceedings  
15 that way. And we can do vice versa for Southern  
16 California.

17 Because I think one thing that we know as  
18 commissioners, but I don't know that it's on the  
19 public's radar, is the tradeoffs as having us as  
20 commissioners travel round the state. I mean, quite  
21 frankly, the amount of time it takes me to prepare for  
22 a trip, pack, get to the airport, sit on a plane, get  
23 to the venue across the street -- across the state,  
24 spend hours on the freeways going to the different  
25 hearings, those are all blocks of time that I'm not

1 able to review public comments. That we are not really  
2 able to sit and think about how we will implement some  
3 of the feedback that we're getting from the public.

4 And so I think as we try and fine-tune what we  
5 do with this next round, that really needs to be some  
6 of the framing of how we communicate this to the  
7 public. That we're trying to maximize this scarce time  
8 and financial resources we have so that their input can  
9 actually influence the final product in a better way.

10 COMMISSIONER FILKINS WEBBER: Okay.  
11 Commissioner Forbes.

12 COMMISSIONER FORBES: I think we should have  
13 some kind of hearing structure. I think part of this  
14 is not only that we can incorporate what they say, it  
15 is to give them the opportunity to say it. We can make  
16 the caveats, and we can understand that we can't make  
17 major changes. This has been a public process, and it  
18 is important that we continue to do that.

19 With regard to a split venue that you  
20 proposed, I think it is possible. I don't think it is  
21 necessary.

22 The last comment I want to make is as we go  
23 through the maps and I read the comments, I don't want  
24 to eliminate the potential need for making another trip  
25 to Southern California. I just see -- you know,



1 hopefully, there won't be any problem. But that to me  
2 is -- I want to leave that on the table.

3 COMMISSIONER FILKINS WEBBER: I'll throw in my  
4 two cents real quick, which is that I do recognize the  
5 intent and I also recognize that these hearings would  
6 probably have to take a different focus if we did  
7 consider them.

8 The motion on the floor, though, at this  
9 point, Commissioner COMMISSIONER DiGUILIO: Did you  
10 want to add something just real quick on this motion?

11 COMMISSIONER DiGUILIO: Yes. Just to throw  
12 something out, I would probably support this, but I do  
13 it reluctantly simply because I think we have made some  
14 commitments that we would go out after we do it. But I  
15 just don't think it is the best use of our time, and I  
16 don't think -- I think there is an equity issue in  
17 terms of if we go to two places in the state, that  
18 still leaves a lot of people out.

19 But I would like to see if we could ask public  
20 information to see if there is another way. We may not  
21 be asking for people to do input, because I think  
22 that's the problem here, is that input aspect. So I  
23 would vote for this because I don't think it would be a  
24 wise use of anyone's time for input. But there may be  
25 an opportunity for us to go out and do some education

1 or presentation of our meetings as a group, which I  
2 think would be a nice compromise in this situation.

3 So that's what I would like. I'll vote for  
4 the motion, but I would like to see if we can explore  
5 another way to do some outreach that doesn't involve  
6 input.

7 COMMISSIONER FILKINS WEBBER: Commissioner  
8 Dai, this was your motion.

9 COMMISSIONER DAI: Yes. And I'm supposed to  
10 support my own motion. And I think it's primarily for  
11 a lot of the reasons that were stated, you know, I  
12 think the issue of equity. I think Commissioner  
13 Blanco's point that, you know, the written comment has  
14 been quite good, and it's hard to do all of that in two  
15 minutes. Whether we do it virtually or in person,  
16 we're still going to be faced with a time limit.

17 And really I think in all fairness to all  
18 Californians, in order to truly give equal access, you  
19 know, allowing for written submissions across the state  
20 is really the fairest way. No matter where we go,  
21 we're going to be advantaging a certain part of the  
22 state.

23 So I like the idea of potentially doing some  
24 presentation and educational sessions, but I think it  
25 is a separate issue from input. There is just the

1 practical issue of how much time we have to incorporate  
2 that input as Commissioner Barabba said.

3 COMMISSIONER FILKINS WEBBER: I'm sorry,  
4 Commissioner Ward, did you have a question?

5 Commissioner Ward: I wanted to ask staff  
6 counsel a quick question. One of the things that  
7 several months ago staff counsel had briefed us on is  
8 the importance of -- or one of the tools of going out  
9 to the public and receiving that testimony was that  
10 when -- if our maps are challenged in court, being able  
11 to show that we went out into the community and  
12 solicited input. That is one of the things that helps  
13 protect something that might be contingent in our maps.

14 And I'm curious with the amount of changes  
15 that are likely to occur between the first draft and  
16 second draft, if we don't actually go out in the  
17 communities and do any outreach or public input to the  
18 commission, does that in any way harm our final  
19 product? I'm just wondering whether staff counsel had  
20 any opinion on that.

21 COMMISSIONER FILKINS WEBBER: Ms. Johnston?

22 MS. JOHNSTON: I think you do have to allow  
23 for public input. Whether that's in writing or at a  
24 meeting or by any other means, I think it is up to the  
25 commission to decide what's the most effective way to

1 do that.

2 COMMISSIONER FILKINS WEBBER: At this time  
3 there is a motion on the floor. Commissioner Ontai,  
4 can you make it quick?

5 COMMISSIONER ONTAI: Yes. Just one question  
6 to follow up on Commissioner Raya's virtual  
7 presentation. We're sort of doing it right now, we're  
8 live, right? So, Commissioner Raya, I think your  
9 motion was to have public interact live in the public  
10 setting like this. Is that what you had in mind?

11 COMMISSIONER RAYA: That is what I had in  
12 mind.

13 COMMISSIONER FILKINS WEBBER: We can get to a  
14 discussion about what it might be dependent on this  
15 motion, I suspect.

16 Where are we at? Public comment on the motion  
17 that's pending right now, which is to disregard or take  
18 away the public input hearings post second draft map.  
19 I see no public comment.

20 We'll have Ms. Sargis read the motion back,  
21 please.

22 MS. SARGIS: The motion is that the commission  
23 will not hold any public input hearings after the  
24 release of the second draft map but will encourage the  
25 submission of written public comments with a cutoff

1 date to be determined.

2 COMMISSIONER FILKINS WEBBER: Rollcall vote,  
3 please.

4 MS. SARGIS: Commissioner Yao?

5 COMMISSIONER YAO: Yes.

6 MS. SARGIS: Commissioner Ward?

7 Commissioner Ward: No.

8 MS. SARGIS: I'm sorry, I didn't hear you.

9 Commissioner Ward: No.

10 MS. SARGIS: Commissioner Raya?

11 COMMISSIONER RAYA: Yes.

12 MS. SARGIS: Parvenu?

13 COMMISSIONER PARVENU: Yes.

14 MS. SARGIS: Ontai?

15 COMMISSIONER ONTAI: Yes.

16 MS. SARGIS: Galambos Malloy?

17 COMMISSIONER GALAMBOS MALLOY: I'm sorry, I  
18 have to ask a clarifying question. With this motion,  
19 it means that it is completely off the table, even the  
20 concept of a virtual hearing?

21 COMMISSIONER DAI: I made this not going out  
22 to do a public hearing, a physical public hearing. So,  
23 you know, if you want to -- if there is a way -- I also  
24 don't think we have time to do a virtual hearing. But  
25 that is a separate issue.

1 COMMISSIONER FILKINS WEBBER: We're clearing  
2 the calendar, let's put it that way.

3 COMMISSIONER DiGUILIO: The discussion for  
4 maybe a virtual hearing can be taken up again. If you  
5 would like to propose an option to do that because we  
6 are still within our noticing requirements. With this  
7 motion, as I understand it, is simply to eliminate the  
8 input hearings as we have had them structured in the  
9 past.

10 COMMISSIONER GALAMBOS MALLOY: Yes.

11 MS. SARGIS: Commissioner Forbes?

12 COMMISSIONER FORBES: No.

13 MS. SARGIS: Filkins Webber?

14 COMMISSIONER FILKINS WEBBER: Yes.

15 MS. SARGIS: DiGuilio?

16 COMMISSIONER DiGUILIO: Yes.

17 MS. SARGIS: Dai?

18 COMMISSIONER DAI: Yes.

19 MS. SARGIS: Blanco?

20 COMMISSIONER BLANCO: No.

21 MS. SARGIS: Barabba?

22 COMMISSIONER BARABBA: Yes.

23 MS. SARGIS: Ancheta?

24 COMMISSIONER ANCHETA: Yes.

25 MS. SARGIS: Aguirre?

1 COMMISSIONER AGUIRRE: No.

2 MS. SARGIS: Ten to four, the motion passes.

3 COMMISSIONER FILKINS WEBBER: Thank you.

4 I recommend that if anybody has any other  
5 thoughts about what to do with those days, and the work  
6 plan commissioners will be working on that as well.

7 I would like to move on. We are running out  
8 of time. And I understand, Commissioner Raya, you do  
9 have some significant things that you need action on  
10 from the commission in your committee report. Did you?  
11 I don't remember. I think it was consideration from  
12 the Los Angeles meeting, wasn't it? We'll talk about  
13 it later.

14 Okay. I would like to turn it back over to  
15 Commissioner Ancheta because we have two bigger  
16 elements for discussion in the tech and outreach that  
17 we do need to address. And we'll be taking public  
18 comment at 4:45. So we have a half an hour, ladies and  
19 gentlemen.

20 So, please, Commissioner COMMISSIONER  
21 DiGUILIO: Did you have anything further? Otherwise,  
22 we're going to turn it over to Commissioner Ancheta.

23 COMMISSIONER DiGUILIO: No. I was doing the  
24 sign for cracking the whip. That's all.

25 COMMISSIONER FILKINS WEBBER: My voice, my

1 tone?

2 COMMISSIONER DiGUILIO: I was encouraging it.

3 COMMISSIONER FILKINS WEBBER: Thank you.

4 Commissioner Ancheta.

5 COMMISSIONER ANCHETA: Do you have a  
6 preference on the ones I identify?

7 COMMISSIONER FILKINS WEBBER: As I understood  
8 it, and the preference I would prefer is the parallel  
9 track, you have some options for. And then we'll get  
10 to the report. The report is going to be a fairly  
11 quick discussion, and I can wrap that up for you pretty  
12 quickly.

13 COMMISSIONER ANCHETA: So you might want to  
14 refer to end of the work plan document, which is a  
15 different document on Google docs. The recommendation  
16 -- and I'm going to put out a couple different options  
17 for discussion. It is not a motion yet.

18 But what we are suggesting is that  
19 particularly with respect to the Section 2 districts,  
20 that in order to have some efficiency regarding any  
21 revisions that we might make to the existing plan, that  
22 we would try to designate a working group that would  
23 solely work with Q2 and Gibson Dunn to look at -- look  
24 at alternative Section 2 as is presented in statewide  
25 maps, to look at some of the COI testimony and related



1 neighborhood testimony that's in the database, and  
2 work -- make consultation with Dr. Barreto regarding  
3 his polarized voting analysis.

4 Now, the underlying goal is to try to get to  
5 the commission by -- perhaps by the 23rd, if we can get  
6 something together, the 24th, one of the earlier  
7 meetings, some progress reports. And then by the time  
8 we get to the first public -- I'm sorry, the first line  
9 drawing meeting, that there would be some set of  
10 recommendations that might be presented in terms of  
11 actions.

12 Now, how specific and how -- what level of  
13 recommendations, I think, is the point of discussion.  
14 I think we need to pursue this track simply because of  
15 the timeline. Because if we -- just focusing on  
16 Section 2 within the line drawing meetings themselves  
17 in a full group discussion, I think it will take much  
18 too much time. So we need to kind of specialize and  
19 focus.

20 But there are some variations. There is a how  
21 much you want to get done leading up to that first  
22 meeting. And some of it may revolve around how much  
23 delegation you want to provide to this working team  
24 that I'm suggesting.

25 What I'm suggesting is a team that will

1 include two commissioners, the Gibson Dunn team, Q2,  
2 and then staff as needed to engage in some of these  
3 tasks in parallel with the public hearing schedule.

4 Now, again, the most extreme option might  
5 simply be you guys draw the lines; in other words, put  
6 it all together and we'll look at them and we'll say  
7 "yes" or "no" or make revisions to those.

8 Others may simply be we need to have --  
9 another option is simply we need to have some  
10 significant changes here, and we would recommend moving  
11 in these directions; but you don't get to the high  
12 level of specificity. So that would mean a fair amount  
13 of full commission review of the maps.

14 And then a third alternative has very little  
15 actual set of recommendations on the lines but simply  
16 "Here is the analysis we have of other maps. Here are  
17 ways we could go." But you don't have to spend a lot  
18 of time in the full commission discussing a lot of  
19 these different possibilities.

20 So, again, I want to get -- before putting  
21 forth a motion, I wanted to get a sense from the  
22 commissioners where people might be leading in terms of  
23 this kind of proposal. But the fundamental proposal  
24 would still focus on having a working team. If there  
25 is opposition to that, we should talk about it. That's

1 where the motion would go.

2 COMMISSIONER FILKINS WEBBER: Let me just ask  
3 for clarification. Are you talking about a working  
4 team for Section 2 districts only, or are you talking  
5 maybe working teams per region? You started out as a  
6 working team proposal for Section 2 to look at  
7 alternatives for statewide maps and working with  
8 Gibson, Dunn & Crutcher and Mr. Barreto. So you kind  
9 of highlighted Section 2 only -- and maybe like a  
10 parallel working group. And I was wondering if your  
11 proposal was considering something greater with other  
12 districts that are not Section 2.

13 COMMISSIONER ANCHETA: No, not at this point.  
14 That has been raised by Commissioner Blanco. I think  
15 it is an appropriate area of discussion. My motion,  
16 once we get some sense of the commission, would only go  
17 to the Section 2 districts.

18 COMMISSIONER FILKINS WEBBER: How many  
19 commissioners -- I guess it would be limited to  
20 probably two.

21 COMMISSIONER ANCHETA: Two.

22 COMMISSIONER FILKINS WEBBER: Okay. Anyone  
23 have any thoughts on this parallel working team  
24 proposal? Commissioner Barabba.

25 COMMISSIONER BARABBA: I would lean towards

1 the second item, where you would come at it with not  
2 specifics, but issues -- I forget how you described it.  
3 You had three phases, three approaches. I thought the  
4 second one sounded better to me.

5 Would you kindly repeat that?

6 COMMISSIONER ANCHETA: I'm not sure what was  
7 the second, first, or third. In essence, I guess an  
8 intermediate position would be that this team would  
9 come back to the commission on the 23rd with some  
10 progress reports regarding the analysis of alternative  
11 maps, and this is largely through existing statewide  
12 maps. And then as we got close to the first line  
13 drawing meeting, we would ideally have some written set  
14 of recommendations that would include, as you are  
15 suggesting, a way to approach this; in other words,  
16 recommendations for perhaps moving certain districts or  
17 unpacking one district and creating another one, that  
18 kind of thing.

19 COMMISSIONER FILKINS WEBBER: Is your idea in  
20 that regard that the two commissioners that could be on  
21 this working team could provide direction to Q2? I  
22 mean, are you taking it to that point, that the  
23 commission would be giving delegated authority to these  
24 individuals to discuss various options with Q2?  
25 Because it doesn't seem like it is going to work as

1 well as you're suggesting unless we -- Q2 is going to  
2 say, "Well, what about this and what about that?" And  
3 the team members would have to come back to the  
4 commission, and that just seems like it kind of defeats  
5 the purpose of having this working group, unless you're  
6 suggesting maybe not delegated authority, but then to  
7 work out various options that are then brought back.  
8 But you still have some decision making on the part of  
9 the commission members to direct Q2.

10 But Ms. Johnston has a comment.

11 MS. JOHNSTON: If you're going to delegate  
12 power, even if it is just to two people, then it has to  
13 be done in a public meeting. Those two people have to  
14 meet. It can be purely advisory.

15 COMMISSIONER FILKINS WEBBER: I see. Okay.  
16 Thank you. So that answers that question.

17 Commissioner Ancheta.

18 COMMISSIONER ANCHETA: You're right in the  
19 sense there has to be some interaction with Q2 in order  
20 to, again, get the maps -- well, you can try somebody  
21 else's software, but I think you want to work with our  
22 maps.

23 COMMISSIONER FILKINS WEBBER: Commissioner  
24 Dai.

25 COMMISSIONER DAI: I have a question for

1 Ms. Johnston. Isn't it correct that rather than  
2 setting up anybody here, that if we actually involved a  
3 couple committee members -- advisory committee -- a  
4 different advisory committee, that we can actually get  
5 more people than two?

6 MS. JOHNSTON: Not if you're delegating power  
7 to this new group. You're, in effect, creating a new  
8 group.

9 COMMISSIONER DAI: So basically it can be no  
10 more than two?

11 MS. JOHNSTON: It can be more than two if it  
12 is done in public session. And even if it is only two,  
13 it can't have any delegated power.

14 COMMISSIONER FILKINS WEBBER: Commissioner  
15 Blanco.

16 COMMISSIONER BLANCO: Because I was thinking  
17 that one way to sort of go the Option 2 -- and I think  
18 maybe we can still figure this out. With a June 23rd  
19 date that Commissioner Ancheta proposed, is that  
20 actually something be brought -- we have two business  
21 meetings in Fresno and Stockton, which I have already  
22 spoken to Q2 about being available.

23 And my thought was precisely this, that we  
24 could be at that meeting and that we could come with  
25 some recommendations or ideas, whatever we're calling

1       them that's legal, in terms of how they come to us.  
2       But that they come to us and at that meeting we go  
3       through that.

4               So that's -- I would feel very comfortable  
5       with that. I don't know what the structure has to be,  
6       and maybe it is just a two-person committee that makes  
7       a presentation at the Fresno and at the Stockton  
8       meeting on the Section 2 issues with our mappers there  
9       and we begin to draw. So I would go with that notion.

10              COMMISSIONER FILKINS WEBBER: Commissioner  
11       Ancheta.

12              COMMISSIONER ANCHETA: That probably doesn't  
13       require a motion either, I think, in terms of -- well,  
14       if you made -- with these two we could do that already.  
15       But I'm not sure if -- I'm happy to do that.

16              COMMISSIONER FILKINS WEBBER: There's a lot of  
17       work that is being put on Commissioner Ancheta and  
18       Commissioner DiGuilio. As far as this work plan, they  
19       are really going to be working closely with Q2 and  
20       following the directions that the commission gets. So  
21       I certainly don't think it is right or fair for them to  
22       have this additional burden. I like the idea.

23              Does the commission have any further comments  
24       on this parallel track idea; otherwise, I'd like to  
25       take volunteers of two commissioners that can help.

1 And basically it would be almost similar to what  
2 Commissioner Ancheta and Commissioner DiGuilio are  
3 doing, which is coordinating ideas and making sure the  
4 work is getting done on Section 2 areas.

5 Commissioner Yao.

6 COMMISSIONER YAO: I have a question for  
7 Ms. Johnston. The issue before us is try to determine  
8 whether a district is a Section 2 district or not, and  
9 we're having a consultant giving us that input. And  
10 that input really is a very -- a very cut-and-dry  
11 decision. Does it or does it not meet the definition  
12 of a district -- Section 2 district? It is not a  
13 decision that involved the entire commission to make.

14 So I don't see this as really a, quote,  
15 unquote, "open meeting issue," but we're trying to make  
16 a decision separate -- in a closed session away from  
17 the public. I think in this particular case, we're  
18 just simply trying to understand as to whether it does  
19 meet the requirement of a Section 2 city.

20 So on that basis, I don't think the open  
21 meeting act applies. And I think as many  
22 commissioners, if he or she wanted to, can participate  
23 in this, in deciding, again with the help of our  
24 consultant, as to whether we do or don't have a  
25 Section 2 district.



1 MS. JOHNSTON: Certainly as many commissioners  
2 as you decide can take part in the process. But if it  
3 is more than two members, it has to be a public  
4 process. That's all. And I think that's probably what  
5 you're going to be getting from the professor, it's not  
6 a cut and dry "yes" or "no." It will be an opinion  
7 based on different factors and things you should  
8 consider. But perhaps Commissioner Ancheta could speak  
9 more to that.

10 COMMISSIONER FILKINS WEBBER: Commissioner  
11 COMMISSIONER DiGUILIO: We do have to move on.

12 COMMISSIONER DiGUILIO: Can I just suggest --  
13 I think one of the strategies that Commissioner Ancheta  
14 and I realize, too, is that as part of this work plan  
15 team, there are a lot of things that we'll be doing,  
16 but there are a lot of things we're also trying to  
17 delegate a little bit. I do think there is some  
18 element with our skills, being a little more legal, a  
19 little more technical.

20 As I have identified, I think there are some  
21 things I will be trying to work through and trying to  
22 get some technical things set up. And maybe there is  
23 some things in this situation with Section 2 that  
24 Commissioner Ancheta can continue to work with and then  
25 adding one more person.

1 I'm going to throw out Commissioner Dai only  
2 because I think there is an element, too, that a lot of  
3 this will take place in conjunction with Q2 and our  
4 VRA. And I think the proximity of the physical  
5 location helps out a lot. Because, to be honest, we  
6 have a very short time deadline. And it really occurs  
7 to me that you have to be available -- this has  
8 happened already. This has happened with us that we've  
9 had to make -- readjust our plans within a couple of  
10 hours to meet with these contractors.

11 So I would suggest that maybe Commissioner --  
12 I'm not sure. I haven't talked to him. Would that  
13 work with Commissioner Ancheta and Commissioner Dai  
14 focusing on this legal issue? Anyway, I'm going to  
15 throw that out there.

16 COMMISSIONER ANCHETA: I am happy to do that.  
17 I think there is a party configuration issue regarding  
18 the two of us. I think functionally it makes a lot of  
19 sense. It is a party issue because we're two  
20 Democrats.

21 COMMISSIONER FILKINS WEBBER: Any other --  
22 Commissioner Galambos Malloy.

23 COMMISSIONER GALAMBOS MALLOY: I would concur.  
24 I think it would be good for our process to have a  
25 balance amongst who's doing the work. I think I caught

1 Commissioner Barabba's eye, and he might be able to  
2 play this role.

3 COMMISSIONER DiGUILIO: And I also suggest  
4 either one of you, actually, because of your proximity  
5 and your other party affiliation. I think that both  
6 serves a purpose, as well. I'm sorry, I forget there  
7 are people outside of San Francisco. I'll let you two  
8 discuss that.

9 COMMISSIONER FILKINS WEBBER: Commissioner  
10 Ward.

11 Commissioner Ward: I know Commissioner  
12 Barabba is already doing a couple other things. Is  
13 teleconference just not an option for this? Can we  
14 open it up more broadly?

15 COMMISSIONER ANCHETA: It is hard because you  
16 need to sit in front of a computer and look at the  
17 maps. That's the hard thing. A lot can be -- I'm not  
18 saying you can't do it. There is a lot of be there and  
19 look at what's going on, which is why -- for example,  
20 there's going to be a meeting that has to pull people  
21 together to look at some of the statewide maps that's  
22 happening tomorrow.

23 COMMISSIONER FILKINS WEBBER: And we are  
24 anticipating that this meeting with the two  
25 commissioners, Gibson Dunn, and Q2 on Section 2 issues

1 would be occurring in preparation for next week's  
2 meeting, correct? I mean, they need to move that  
3 quickly.

4 COMMISSIONER ANCHETA: Yes.

5 COMMISSIONER FILKINS WEBBER: So volunteers?  
6 Let's move it along.

7 COMMISSIONER GALAMBOS MALLOY: Okay. I live  
8 ten minutes from probably the site we need to meet.  
9 Recognizing Commissioner Barabba is already leading IFB  
10 and other projects, I'm happy to take on this role.

11 COMMISSIONER FILKINS WEBBER: Commissioner  
12 Barabba, did you want to volunteer?

13 COMMISSIONER BARABBA: Yeah. I'm available.  
14 It is an hour and a half drive to Q2 offices, I  
15 believe. It is not that hard for me.

16 COMMISSIONER FILKINS WEBBER: Are you  
17 volunteering? And use your microphone, please.

18 COMMISSIONER BARABBA: Yes, I am.

19 COMMISSIONER FILKINS WEBBER: I don't think we  
20 need a motion. It is in the work plan. They will just  
21 coordinate with Commissioner Ancheta probably first and  
22 focus in that regard.

23 One final aspect, which is tech and outreach,  
24 is this issue of report -- preparation of the final  
25 reports, was that what you wanted to address,

1 Commissioner Ancheta?

2 COMMISSIONER ANCHETA: Yes. Again, we can  
3 push it back a little bit. In terms of -- to float the  
4 idea is that we do need to have some significant  
5 commission oversight because the responsibilities for  
6 putting the final map together -- a final report, as  
7 well as a draft report -- and there's some discussion  
8 that would have to occur about what we would want to  
9 put in a draft report.

10 COMMISSIONER FILKINS WEBBER: Let me just -- I  
11 don't mean to cut you off. We do have a matter of  
12 time, and I already have an answer to this. Last week,  
13 because I have seen that --

14 COMMISSIONER ANCHETA: And you are the chair.

15 COMMISSIONER FILKINS WEBBER: We have seen  
16 quite a number of issues coming up in this discussion.  
17 In that regard, I asked our executive director,  
18 Mr. Claypool, and Mr. Miller to put together a document  
19 based on the contractual provisions of Q2 and Gibson,  
20 Dunn & Crutcher, and also understanding what the  
21 provisions are under Prop 11 and Prop 20 regarding  
22 staff preparation of these reports.

23 So you have been provided by our executive  
24 director a worksheet -- or I guess a summary, let's  
25 say, of their analysis of the contractual provisions --

1 or the provisions in the contract for Q2 and the  
2 provisions in the contract for Gibson, Dunn & Crutcher.  
3 And we're looking at the contractual language, not the  
4 IFB and not their bids and not their proposals, because  
5 DGS does not look at that. So I invite you at this  
6 point to take a look at this, Commissioner Ancheta and  
7 Commissioner DiGuilio. Attached to it are the  
8 contracts as well.

9 So if in making your work plan, if you have  
10 some questions regarding that, I ask that you please  
11 forward them through the chair to Mr. Claypool and  
12 Mr. Miller as to their analysis of the reporting  
13 responsibilities. And so take a look at it. We'll  
14 probably have to defer further discussion upon report  
15 when Mr. Miller is here. I need to ask that to be  
16 deferred to Fresno anyway. I already tasked them to do  
17 this.

18 COMMISSIONER DIGUILIO: Thank you for having  
19 the answer.

20 COMMISSIONER FILKINS WEBBER: Was that the  
21 answer? Was it a good enough answer?

22 COMMISSIONER ANCHETA: At some point, we  
23 should settle on the timeline. So if that can be first  
24 at next meeting.

25 COMMISSIONER FILKINS WEBBER: Sure. We can

1 take a look at the timeline.

2 Commissioner Ontai, I know you were part of  
3 the tech and outreach. Is there anything that you  
4 would like to highlight or recognize?

5 COMMISSIONER ONTAI: Yes. Read the policy  
6 manual, Page 18 and 20, regarding security plan.  
7 That's it.

8 COMMISSIONER FILKINS WEBBER: Anything you  
9 would like to highlight for this evening's meeting?  
10 Maybe fill in as chair. We can -- okay. Just for  
11 highlights, anything that was not discussed on the  
12 agenda that may be considered deferred out of tech and  
13 outreach, unless there is anything else that you need  
14 to highlight?

15 COMMISSIONER ONTAI: On No. 4 of that security  
16 plan, Page 19, if you can turn to that. I think the  
17 issue that was raised was to automatically remove  
18 members from the public if they show any signs of  
19 disruption. I think it is clearly stated in there that  
20 that will occur. So I think that becomes one of the  
21 issues that was raised at our last meeting. Comments?

22 COMMISSIONER FILKINS WEBBER: Seeing none.

23 COMMISSIONER ONTAI: Okay. The other item I  
24 have here, there is a comment that says "Delays of  
25 presentations not previously approved by the commission

1 chair," I'm not sure. I'm not an attorney. But it  
2 seems to me it is a violation of free speech. Maybe  
3 others can comment on that.

4 COMMISSIONER FILKINS WEBBER: I think all we  
5 were saying is that didn't disrupt the view of others.  
6 And obviously we -- you might get into an issue of  
7 making sure that it is appropriate and not offensive.  
8 And so we were talking about maybe in the back of the  
9 room so that it doesn't block somebody's view, that  
10 type of thing.

11 COMMISSIONER ONTAI: All right. Maybe we just  
12 need to clarify that, and that's it.

13 COMMISSIONER FILKINS WEBBER: Okay. Anything  
14 further from tech and outreach?

15 COMMISSIONER ONTAI: None from me.

16 COMMISSIONER FILKINS WEBBER: Finance  
17 administration has five minutes and so does public  
18 information. Now you know how legal feels when we get  
19 pushed to the bottom of the agenda.

20 COMMISSIONER DAI: Thank you, Chair.

21 COMMISSIONER FILKINS WEBBER: We're used to  
22 it.

23 COMMISSIONER DAI: I actually think -- I  
24 appreciate the discussions that we had today, and they  
25 were much more important than the F and A items that we



1 have for this meeting.

2 So a couple quick things before I turn it over  
3 to Dan, who is going to give us an update on our budget  
4 and financials really quickly. He just distributed an  
5 abbreviated financial report for your review. As you  
6 know, I also sent around the tweets to the policy  
7 manual based on the request of the commission. I did  
8 not hear any objections. So I don't think we need to  
9 vote on it again.

10 In terms of the personnel and equipment  
11 contracts, some of that has been addressed by the chair  
12 in terms of the contractual language. Basically I had  
13 sent around three resumes which hopefully you had a  
14 chance to look at in the last few hours for a Q2. As  
15 you know, we have to approve all staff. And before we  
16 vote on this, I'm going to -- I think I'm going to go  
17 ahead and let Mr. Claypool do his report. But then I  
18 will be asking for a vote to approve. This is at no  
19 additional expense to the commission.

20 MR. CLAYPOOL: Thank you, Commissioner Dai,  
21 for graciously giving me one minute.

22 I have actually passed out the abbreviated  
23 expenditures. The important thing to notice on this is  
24 that you are 58 percent of your expenditure of your  
25 budget, and that includes encumbrances. You're doing

1 well. We're on track. We have major expenditures  
2 coming, but we're starting to see our invoices from our  
3 line drawer and from VRA attorneys, and that's the  
4 important part.

5 I'll go to the fiscal year end close. It is  
6 pretty much completed. Ms. Davis spent a great deal of  
7 time these last two days just getting all of our  
8 invoices in, all the DDCs, and so forth. The  
9 Department of General Services granted us a two-day  
10 extension, and we're grateful for that.

11 And the only other thing here that I need to  
12 address is the additional administrative report  
13 cataloging public testimony. These three resumes that  
14 are going to be presented to you by Commissioner Dai  
15 are for that position. Now, they will be hired in by  
16 Q2 as their employees. However, at this point a  
17 determination, I think, has been made that they will be  
18 her employees as a contractual obligation. And you'll  
19 see that in the document that are distributed to you.

20 That's all I have.

21 COMMISSIONER DAI: So with that, I would like  
22 to make a motion to go ahead and approve the three  
23 additions to Q2's staff.

24 COMMISSIONER GALAMBOS MALLOY: Second.

25 COMMISSIONER FILKINS WEBBER: I have a

1 question. Has some personnel from Q2 already  
2 interviewed these people? Have they otherwise been  
3 vetted in the customary fashion?

4 COMMISSIONER DiGUILIO: I believe what had  
5 happened was Kyle, the note taker, has previously  
6 worked in -- I don't want to get this terminology  
7 wrong. But these were people that she was familiar  
8 with and had experience, and not just randomly  
9 inputting data. So apparently these came highly  
10 recommended from our note taker, and they have been  
11 interviewed by the Q2 team in general.

12 COMMISSIONER FILKINS WEBBER: Thank you.

13 Any other discussion? Open public comment on  
14 the motion for review of resumes of Q2? Seeing none.

15 I'll ask for a rollcall vote, Ms. Sargis, or  
16 reading back the motion and rollcall.

17 MS. SARGIS: The motion is to approve the  
18 three additional staff Q2. And I was trying to get  
19 their names, but I have them.

20 Commissioner Aguirre?

21 COMMISSIONER AGUIRRE: Yes.

22 MS. SARGIS: Ancheta?

23 COMMISSIONER ANCHETA: Yes.

24 MS. SARGIS: Barabba?

25 COMMISSIONER BARABBA: Yes.

1	MS. SARGIS: Blanca?
2	COMMISSIONER BLANCA: Yes.
3	MS. SARGIS: Dai?
4	COMMISSIONER DAI: Yes.
5	MS. SARGIS: DiGuilio?
6	COMMISSIONER DiGUILIO: Yes.
7	MS. SARGIS: Filkins Webber?
8	COMMISSIONER FILKINS WEBBER: Yes.
9	MS. SARGIS: Forbes?
10	COMMISSIONER FORBES: Yes.
11	MS. SARGIS: Galambos Malloy?
12	COMMISSIONER GALAMBOS MALLOY: Yes.
13	MS. SARGIS: Ontai?
14	COMMISSIONER ONTAI: Yes.
15	MS. SARGIS: Parvenu?
16	COMMISSIONER PARVENU: Yes.
17	MS. SARGIS: Raya?
18	COMMISSIONER RAYA: Yes.
19	MS. SARGIS: Ward?
20	Commissioner Ward: Yes.
21	MS. SARGIS: Yao?
22	COMMISSIONER YAO: Yes.
23	MS. SARGIS: Motion passed.
24	COMMISSIONER FILKINS WEBBER: Thank you.
25	Anything further from finance? Thank you very

1 much for being right on time.

2 Public information?

3 COMMISSIONER RAYA: There is a new handout for  
4 this evening's hearing, "Have We Heard From Your  
5 Community Designed To Help The Public Who is Offering  
6 Testimony." We need to get an idea of what is  
7 important for us to hear from them tonight regarding  
8 the maps. And also, of course, going forward, it was  
9 also issued as a press release. It is in your e-mail.  
10 So I hope you had a chance to look at it.

11 It continues to show the criteria applied so  
12 that, you know, people still have a sense of what the  
13 important bits of information are. I'll jump right  
14 down to the website because that's also posted. The  
15 change -- previous changes requested have been made  
16 with respect to referral to outside assistance. And we  
17 did also include the referral to outside assistance.  
18 If you need help preparing your testimony, here are  
19 some people that can help you get prepared. And let's  
20 see.

21 I think that's -- going forward, we are also  
22 reaching out to -- Mr. Wilcox is reaching out to a  
23 number of statewide organizations; for example,  
24 California Association of Nonprofits I think is the  
25 name. Maybe I should let -- do you want to speak to

1 those groups?

2 MR. WILCOX: Yes. Including the counsel --  
3 the Association that Counsels the Governments,  
4 California League of Cities. Again, going back and  
5 saying we really need to redouble the efforts.  
6 Association of Nonprofits in the state, other groups.  
7 Many of our outreach partners are just redoubling their  
8 efforts. We're really trying to make a impetus of  
9 getting the public to comment on the second draft maps,  
10 especially those that may have not been represented  
11 before. And we will continue to do that.

12 COMMISSIONER FILKINS WEBBER: I have one  
13 question. Based on the advice of counsel and their  
14 recommendation for greater outreach in the Los Angeles  
15 County region, as well as in Stockton, has public  
16 information or you, Mr. Wilcox, maybe, reassessed that  
17 focus based on advice of counsel?

18 MR. WILCOX: Yes. And identifying groups to  
19 do that, including Southern California area  
20 governments. And we are identifying those groups and  
21 reaching out to them, including the Stockton area.

22 COMMISSIONER FILKINS WEBBER: Is it too much  
23 to ask for some sort -- just so our counsel, who was  
24 concerned about that, can be made aware, maybe if you  
25 put together a list of what this special outreach would

1 be to L.A. County or the special outreach plan that you  
2 have developed for Stockton to address their concerns  
3 just so that they know what we have done? Is that  
4 possible?

5 COMMISSIONER RAYA: Of course we can do that.  
6 And also if any commissioners have any specific  
7 recommendations to any organizations to add to the  
8 list, because we really want to apply it statewide.  
9 But we will focus on the areas that have been  
10 identified by counsel.

11 COMMISSIONER DiGUILIO: I'm glad to hear that.  
12 I'll be happy to do that. My concern prior was that  
13 the appropriateness of commissioners to reach out  
14 individually. But if that is a request, I'm happy to  
15 do that.

16 COMMISSIONER FILKINS WEBBER: Anything further  
17 from public information?

18 COMMISSIONER RAYA: That's it.

19 COMMISSIONER FILKINS WEBBER: One other thing.  
20 Does the commission have anything further that they  
21 would like to ask of finance administration or public  
22 information? That is something that we always put out  
23 there if there is additional -- Commissioner Ancheta.

24 COMMISSIONER ANCHETA: I would just like to  
25 ask staff to figure out what the implications of a

1 budget veto by Governor Brown will have on our budget.

2 COMMISSIONER FILKINS WEBBER: Mr. Claypool,  
3 where is he at?

4 Ms. Sargis, will you make a note that we have  
5 asked Mr. Claypool to look at the impact of the veto on  
6 the budget and what effect it may have for us in the  
7 next fiscal year.

8 Anything further?

9 COMMISSIONER DAI: As Mr. Claypool said  
10 before, we technically have three-year money. So  
11 technically it shouldn't affect us, but we will just  
12 have to keep monitoring it.

13 COMMISSIONER FILKINS WEBBER: Ms. Sargis will  
14 get that memo to Mr. Claypool.

15 In the meantime, unless he has an opinion now,  
16 you have 30 seconds.

17 MR. CLAYPOOL: I'll do it in ten. The budget  
18 veto doesn't affect us because it is three-year money,  
19 and the state controller has already agreed to pay our  
20 bills.

21 COMMISSIONER FILKINS WEBBER: Wonderful. That  
22 answers that.

23 There's three final things that I would like  
24 to address as chair because we did skip over it. It  
25 kind of fits in under the agenda under the public input



1 hearing format and structure and operations, which is  
2 on the agenda. And because we do have one coming up in  
3 almost an hour, there's three issues I noticed in  
4 putting together at least the introduction. And,  
5 again, we have a slightly different focus here. There  
6 are three things that have come up to my attention that  
7 we need to quickly brush through.

8 First of all -- I'll take the easiest ones. I  
9 haven't gone -- had a chance to review the security  
10 policy again. But will the commission desire breaks  
11 and break together? Before we were not taking breaks.  
12 We do have quite a number of people that we anticipate  
13 this evening. And so I am recommending that we do take  
14 breaks together, and that they be done probably in an  
15 hour and a half format. If no objection, that's the  
16 way I'm going to proceed.

17 Okay. No objection.

18 One other suggestion was to forego  
19 introduction of the commissioners and move forward with  
20 the public input. Is anybody against that? In other  
21 words, the bios are contained in the information we're  
22 handing out. They can have that. There won't be any  
23 individual introduction of commission members.

24 COMMISSIONER GALAMBOS MALLOY: The one  
25 exception I would ask is that our local host might say

1 a few words on our behalf.

2 COMMISSIONER FILKINS WEBBER: Fine.

3 Wonderful.

4 One other issue might be a little bit more --  
5 we can make a decision for tonight. And if we want, we  
6 can defer the discussion until later. But especially  
7 when we are in city council chambers, whether or not  
8 the commission desires to do the Pledge of Allegiance.

9 You had raised the issue.

10 COMMISSIONER BLANCO: I had raised the issue  
11 that if we were going to do it, we should do it  
12 everywhere, especially when we are in an official  
13 setting. I think it's a good practice to do that in  
14 government meetings. And if we want to start today, it  
15 is just a consistent practice when we're in official  
16 city -- not just city, but official government  
17 buildings.

18 I know there was some concern that we have  
19 been criticized and whether we would be doing this and  
20 giving into that criticism. I really have thought  
21 about that a great deal, and I think actually it will  
22 add a lot of decorum to our meetings, particularly in  
23 government buildings; and I think it would be  
24 respectful to do so.

25 COMMISSIONER FILKINS WEBBER: Any other

1 discussion? Otherwise, we'll start this evening,  
2 unless there is an objection. And I don't feel we need  
3 a motion on that.

4 So the recommendation -- and I'll talk to  
5 Commissioner Blanco about where we put that in on the  
6 timing.

7 Anything further? I see none.

8 At this hour, as we customarily do at the  
9 conclusion of our business meetings, we open the  
10 microphone to any public comment. I understood that  
11 there might have been some people who wanted to address  
12 the commission on items that are not on the agenda. I  
13 thought there was.

14 Okay. Anything further? Then we will  
15 adjourn.

16 (Proceedings concluded at 4:50 p.m.)

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